



# IOWA ADMINISTRATIVE BULLETIN

*Published Biweekly*

VOLUME XXVII  
September 1, 2004

NUMBER 5  
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## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC  
(chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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date), (page number), (ARC number).

## Schedule for Rule Making 2004

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04
Jan. 16	Feb. 4	Feb. 24	Mar. 10	Mar. 12	Mar. 31	May 5	Aug. 2
Jan. 30	Feb. 18	Mar. 9	Mar. 24	Mar. 26	Apr. 14	May 19	Aug. 16
Feb. 13	Mar. 3	Mar. 23	Apr. 7	Apr. 9	Apr. 28	June 2	Aug. 30
Feb. 27	Mar. 17	Apr. 6	Apr. 21	Apr. 23	May 12	June 16	Sept. 13
Mar. 12	Mar. 31	Apr. 20	May 5	May 7	May 26	June 30	Sept. 27
Mar. 26	Apr. 14	May 4	May 19	May 21	June 9	July 14	Oct. 11
Apr. 9	Apr. 28	May 18	June 2	June 4	June 23	July 28	Oct. 25
Apr. 23	May 12	June 1	June 16	June 18	July 7	Aug. 11	Nov. 8
May 7	May 26	June 15	June 30	July 2	July 21	Aug. 25	Nov. 22
May 21	June 9	June 29	July 14	July 16	Aug. 4	Sept. 8	Dec. 6
June 4	June 23	July 13	July 28	July 30	Aug. 18	Sept. 22	Dec. 20
June 18	July 7	July 27	Aug. 11	Aug. 13	Sept. 1	Oct. 6	Jan. 3 '05
July 2	July 21	Aug. 10	Aug. 25	Aug. 27	Sept. 15	Oct. 20	Jan. 17 '05
July 16	Aug. 4	Aug. 24	Sept. 8	Sept. 10	Sept. 29	Nov. 3	Jan. 31 '05
July 30	Aug. 18	Sept. 7	Sept. 22	Sept. 24	Oct. 13	Nov. 17	Feb. 14 '05
Aug. 13	Sept. 1	Sept. 21	Oct. 6	Oct. 8	Oct. 27	Dec. 1	Feb. 28 '05
Aug. 27	Sept. 15	Oct. 5	Oct. 20	Oct. 22	Nov. 10	Dec. 15	Mar. 14 '05
Sept. 10	Sept. 29	Oct. 19	Nov. 3	Nov. 5	Nov. 24	Dec. 29	Mar. 28 '05
Sept. 24	Oct. 13	Nov. 2	Nov. 17	***Nov. 17***	Dec. 8	Jan. 12 '05	Apr. 11 '05
Oct. 8	Oct. 27	Nov. 16	Dec. 1	Dec. 3	Dec. 22	Jan. 26 '05	Apr. 25 '05
Oct. 22	Nov. 10	Nov. 30	Dec. 15	***Dec. 15***	Jan. 5 '05	Feb. 9 '05	May 9 '05
Nov. 5	Nov. 24	Dec. 14	Dec. 29	Dec. 31	Jan. 19 '05	Feb. 23 '05	May 23 '05
***Nov. 17***	Dec. 8	Dec. 28	Jan. 12 '05	Jan. 14 '05	Feb. 2 '05	Mar. 9 '05	June 6 '05
Dec. 3	Dec. 22	Jan. 11 '05	Jan. 26 '05	Jan. 28 '05	Feb. 16 '05	Mar. 23 '05	June 20 '05
***Dec. 15***	Jan. 5 '05	Jan. 25 '05	Feb. 9 '05	Feb. 11 '05	Mar. 2 '05	Apr. 6 '05	July 4 '05
Dec. 31	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05

### PRINTING SCHEDULE FOR IAB

#### ISSUE NUMBER

#### SUBMISSION DEADLINE

#### ISSUE DATE

7

Friday, September 10, 2004

September 29, 2004

8

Friday, September 24, 2004

October 13, 2004

9

Friday, October 8, 2004

October 27, 2004

#### PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

\*\*\*Note change of filing deadline\*\*\*

## PUBLICATION PROCEDURES

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 14, 2004, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### ADMINISTRATIVE SERVICES DEPARTMENT[11]

Printing; procurement of goods and services, rescind 401—ch 5, 471—ch 13;  
 adopt 11—ch 102; amend 11—105.1, 105.2, 105.3(1), 105.3(2), 105.4, 105.4(3)“b,”  
 105.4(4)“b,” 105.4(5), 105.5(1), 105.7(3), 105.7(5), 105.8(4)“a,” 105.8(5)“b,”  
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#### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]“umbrella”

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**IOWA FINANCE AUTHORITY[265]**

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- Boating speed and distance zoning—Green Island and Lake Odessa State Wildlife Areas,  
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- Waterfowl and coot hunting seasons, 91.1, 91.3, 91.4(2)“m” to “q,”  
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15.10(1)"h," 19.2(5)"g," 19.5(2), 19.6(3), 19.8(3), 19.8(6), 20.1(3),

20.5(2)"j," 25.2(2)"g," 25.2(5)"b," 25.3(5), Notice **ARC 3592B** ..... 8/18/04

Consumer services, 19.4(10), 19.4(13)"e," 19.4(15)"d" and "f," 19.4(16)"h,"

20.4(11), 20.4(14)"f," 20.4(15)"d" and "f," 20.4(16)"h," Filed **ARC 3593B** ..... 8/18/04**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR'S NOTE: Terms ending April 30, 2007.**

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Dubuque, Iowa 52002

Senator John P. Kibbie

P.O. Box 190

Emmetsburg, Iowa 50536

Senator Mary Lundby

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Marion, Iowa 52302-0648

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Representative Geri Huser

213 Seventh Street NW

Altoona, Iowa 50009

Brian Gentry

**Administrative Rules Coordinator**

Governor's Ex Officio Representative

Capitol, Room 11

Des Moines, Iowa 50319



To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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#### EDUCATION DEPARTMENT[281]

Extended school program, ch 35 IAB 9/1/04 <b>ARC 3612B</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 21, 2004 1 p.m.
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#### HUMAN SERVICES DEPARTMENT[441]

Collection of delinquent child support, 95.7 IAB 8/18/04 <b>ARC 3597B</b> (See also <b>ARC 3578B</b> , IAB 8/4/04)	ICN Room, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	September 7, 2004 8:30 to 9:30 a.m.
	Suite 32 300 W. Broadway Council Bluffs, Iowa	September 8, 2004 8:30 to 9:30 a.m.
	3911 W. Locust Davenport, Iowa	September 8, 2004 9 to 10 a.m.
	Suite 8 1901 Bell Ave. Des Moines, Iowa	September 7, 2004 9:30 to 10:30 a.m.
	Third Floor Conference Room 799 Main St. Dubuque, Iowa	September 8, 2004 2 to 3 p.m.
	Suite 225 520 Nebraska St. Sioux City, Iowa	September 8, 2004 2 to 3 p.m.
	Suite 400 501 Sycamore Waterloo, Iowa	September 7, 2004 9 to 10 a.m.

#### NATURAL RESOURCE COMMISSION[571]

Camping restrictions, 51.11 IAB 9/1/04 <b>ARC 3623B</b>	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 21, 2004 3:30 p.m.
Fishing regulations, 81.1, 81.2 IAB 9/1/04 <b>ARC 3622B</b>	Dickinson County Community Bldg. 1602 15th St. Spirit Lake, Iowa	September 21, 2004 7 p.m.
	Room 201, Dunlap Technology Bldg. University of Dubuque 2000 University Dr. Dubuque, Iowa	September 22, 2004 7 p.m.
	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 23, 2004 1:30 p.m.

**NATURAL RESOURCE COMMISSION[571] (Cont'd)**

Aquatic invasive species, ch 90 IAB 9/1/04 <b>ARC 3627B</b>	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 22, 2004 1 p.m.
Wild turkey spring hunting, 98.4, 98.7, 98.15 IAB 9/1/04 <b>ARC 3621B</b>	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 21, 2004 3 p.m.

**NURSING BOARD[655]**

Licensure, 3.1, 3.7, 3.8, 4.7, 5.2 IAB 7/7/04 <b>ARC 3470B</b>	Des Moines West Room Holiday Inn Downtown 1050 Sixth Ave. Des Moines, Iowa	September 8, 2004 6:30 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Board-approved chiropractic colleges, 42.1, 42.2 IAB 9/1/04 <b>ARC 3616B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 22, 2004 9 to 10 a.m.
Nursing home administrators, 141.6, 141.9, 141.12 to 141.14, 145.1 IAB 8/18/04 <b>ARC 3582B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 14, 2004 9 to 10 a.m.
Accreditation of educational programs for psychologists, 240.3(2) IAB 9/1/04 <b>ARC 3615B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 22, 2004 10 to 11 a.m.
Social workers—supervisor termination evaluations, 280.6(4) IAB 9/1/04 <b>ARC 3618B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 22, 2004 1 to 2 p.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Peace officers' retirement, accident, and disability system, adopt 661—chs 400 to 404; rescind 581—ch 24 IAB 8/18/04 <b>ARC 3586B</b>	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 8, 2004 10 a.m.
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**UTILITIES DIVISION[199]**

Pipeline and electric line franchise, amendments to chs 10, 11, 13, 15, 19, 20, 25 IAB 8/18/04 <b>ARC 3592B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	September 14, 2004 9 a.m.
Revisions to level payment plan rules, 19.4(11), 20.4(12) IAB 7/7/04 <b>ARC 3493B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	September 1, 2004 9 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
   Agricultural Development Authority[25]  
   Soil Conservation Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF INDUSTRY COUNCIL, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 CITIZENS’ AIDE[141]  
 CIVIL RIGHTS COMMISSION[161]  
 COMMERCE DEPARTMENT[181]  
   Alcoholic Beverages Division[185]  
   Banking Division[187]  
   Credit Union Division[189]  
   Insurance Division[191]  
   Professional Licensing and Regulation Division[193]  
     Accountancy Examining Board[193A]  
     Architectural Examining Board[193B]  
     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
     Real Estate Commission[193E]  
     Real Estate Appraiser Examining Board[193F]  
   Savings and Loan Division[197]  
   Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
   Parole Board[205]  
 CULTURAL AFFAIRS DEPARTMENT[221]  
   Arts Division[222]  
   Historical Division[223]  
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
   City Development Board[263]  
   Grow Iowa Values Board[264]  
   Iowa Finance Authority[265]  
 EDUCATION DEPARTMENT[281]  
   Educational Examiners Board[282]  
   College Student Aid Commission[283]  
   Higher Education Loan Authority[284]  
   Iowa Advance Funding Authority[285]  
   Libraries and Information Services Division[286]  
   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 ELDER AFFAIRS DEPARTMENT[321]  
 EMPOWERMENT BOARD, IOWA[349]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 GENERAL SERVICES DEPARTMENT[401]  
 HUMAN INVESTMENT COUNCIL[417]  
 HUMAN RIGHTS DEPARTMENT[421]  
   Community Action Agencies Division[427]  
   Criminal and Juvenile Justice Planning Division[428]  
   Deaf Services Division[429]  
   Persons With Disabilities Division[431]  
   Latino Affairs Division[433]  
   Status of African-Americans, Division on the[434]  
   Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]  
INFORMATION TECHNOLOGY DEPARTMENT[471]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Homeland Security and Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
        Workforce Development Center Administration Division[877]

**ARC 3598B****AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 159.5(11) and 163.1; Iowa Code Supplement chapter 202C; and 2004 Iowa Acts, House File 2475, the Department of Agriculture and Land Stewardship terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3414B**, amending Chapter 66, "Livestock Movement," Iowa Administrative Code.

The Notice proposed to amend Chapter 66 by rescinding existing rule 21—66.13(163,202C) and adopting a new rule in its place. The proposed rule was intended to establish a financial requirement of a bond or an irrevocable letter of credit for feeder pig dealers to provide a secured asset for the recovery of damages incurred by a feeder pig purchaser.

The Department is terminating the rule making commenced in **ARC 3414B** because, simultaneously with its filing, the rule was also Adopted and Filed Emergency as **ARC 3413B**. The Department has concluded the public participation portion of the Noticed rule making and did not receive any comments on the rule. As a result, the Department does not intend to make any modifications to the rule that was Adopted and Filed Emergency as **ARC 3413B**.

**ARC 3612B****EDUCATION DEPARTMENT[281]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to adopt new Chapter 35, "Extended School Program," Iowa Administrative Code.

This new chapter is required under Iowa Code section 282.1A, which directs the State Board of Education to implement rules for the administration of extended school programs to persons who are beyond the maximum school age.

No waiver provision is included in the proposed chapter because it is mandated by statute.

Public comments concerning the proposed chapter will be accepted until 4:30 p.m. on or before September 21, 2004. Written, oral or electronic comments should be directed to Carol Greta, Legal Consultant, Iowa Department of Education, Grimes State Office Building, Des Moines, Iowa 50319; E-mail [carol.greta@iowa.gov](mailto:carol.greta@iowa.gov); telephone (515)281-8661.

A public hearing will be held on September 21, 2004, at 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, at which time interested parties may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the new chapter. Persons with special needs should

contact the Department of Education prior to the hearing if accommodations are needed.

These rules are intended to implement Iowa Code section 282.1A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement section 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

**CHAPTER 35****EXTENDED SCHOOL PROGRAM**

**281—35.1(282) Purpose.** If a school district demonstrates the ability to do so without taking resources away from its population of school-age students, the district may request permission from the department to provide an extended school program to its residents who are aged 21 or older, who are currently enrolled in an education program in the district, and who meet all other eligibility requirements. The purpose of an extended school program is to provide eligible district residents the opportunity to obtain a high school diploma.

**281—35.2(282) Eligibility of students.**

**35.2(1)** In order to be enrolled tuition-free in an extended school program, a person must meet all of the following requirements:

a. The person is a resident of the district, defined as physically present in the district with no residence established in another district by operation of law, and meets any of the additional following conditions:

(1) Is in the district for the purpose of making a home and not solely for school purposes.

(2) Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. § 11302(a) and (c).

(3) Lives in a residential facility in the district.

b. The person is at least 21 years of age.

c. The person does not have a high school diploma or equivalency diploma, has not met the requirements for a diploma or equivalency diploma, and does not have a postsecondary degree or diploma.

d. The person is currently enrolled in the district as a student.

**35.2(2)** An extended school program is not available to any person through either open enrollment or dual enrollment.

**281—35.3(282) Administration of program.**

**35.3(1)** Regardless of whether the extended school program is separate from or integrated into the district's regular school program, the following provisions must be met:

a. Students enrolled in an approved extended school program shall be included in the district's basic enrollment.

b. Students enrolled in an extended school program shall not be charged tuition for the program, but may be charged fees on the same basis as fees are charged to students enrolled in the district's regular education program. If a student is eligible for whole or partial waiver of a fee, the fee shall be waived in whole or in part.

c. The district shall employ or contract for appropriately licensed teachers for the program.

d. The requirements for proof of immunizations, as required in 641—Chapter 7, shall apply to students enrolled in an extended school program.

e. The student record requirements of 281—subrule 12.3(4) shall apply to students enrolled in an extended school program.

## EDUCATION DEPARTMENT[281](cont'd)

f. Students enrolled in an extended school program shall be subject to all applicable state and district laws, rules, and policies regarding student conduct and discipline.

g. Students enrolled in an extended school program must have access to the district's school lunch program.

h. The extended school program must lead to a high school diploma from the district, and the students must meet all graduation requirements of the district, except that the district, in the sole discretion of the local board, may excuse the students in the extended school program from meeting its physical education requirement.

i. The educational program offered to students enrolled in the extended school program may consist of any combination of the following:

- (1) Courses offered to secondary students of school age;
- (2) Distance learning courses;
- (3) Independent study courses;
- (4) Courses offered by a community college.

**35.3(2)** Reserved.

**281—35.4(282) Prohibited activities.** A student enrolled in an extended school program shall not be allowed to participate in extracurricular activities offered by the district, including activities sanctioned by the Iowa Girls High School Athletic Union, the Iowa High School Athletic Association, the Iowa High School Music Association, and the Iowa High School Speech Association.

**281—35.5(282) Approval process.**

**35.5(1)** A district that desires to operate an extended school program shall submit to the department a request, signed by the superintendent and board president, that includes all of the following:

a. A description of the basic demographics of the identified population of residents who qualify for an extended school program, including a description of how that population was identified and a projection of the long-term need in the district for an extended school program.

b. A description of how the district will operate the extended school program, including the projected percentage of the identified population of residents who are reasonably expected to enroll in an extended school program, the average educational needs of those students, and whether new or existing district teaching staff will be used to fulfill those needs.

c. An assurance that the program will not substantially adversely impact the district's budget and existing resources.

d. An assurance that the program will not substantially interfere with the educational programming provided to school-age students.

e. An assurance that the program will not require additional or new facilities to meet the needs of the identified population.

**35.5(2)** A request to operate an extended school program shall be submitted to the department no later than February 1 of the preceding school year. The department shall notify the district by March 1 whether the approval is granted.

These rules are intended to implement Iowa Code section 282.1A.

## ARC 3605B

### HUMAN SERVICES DEPARTMENT[441]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 2004 Iowa Acts, House File 2134, section 7, the Department of Human Services proposes to amend Chapter 36, “Facility Assessments,” and Chapter 82, “Intermediate Care Facilities for the Mentally Retarded,” Iowa Administrative Code.

These amendments expand the assessment fee for intermediate care facilities for the mentally retarded to apply to the State Resource Centers at Woodward and Glenwood, which were previously excluded. The fee is set at 6 percent of the total annual revenue of the facility for the preceding fiscal year. Funds generated from the assessment are credited to the state medical assistance appropriation. These funds are then used for Medicaid service payments, which draw down additional federal matching funds.

The fee is an allowable cost on a facility's Medicaid cost report. These amendments adjust the Medicaid reimbursement rates for these facilities to reflect the increased cost. Any amount attributable to the fee that would otherwise be the liability of the county shall be paid by the state. The fee is retroactive to October 1, 2003, as permitted by legislation.

These amendments also correct a cross reference on appeals of county decisions.

These amendments do not provide for waivers in specified situations because all affected facilities should be treated uniformly under the law.

Any interested person may make written comments on the proposed amendments on or before September 22, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3601B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2004 Iowa Acts, House File 2134, section 3, and Iowa Code section 249A.21 as amended by 2004 Iowa Acts, House File 2134, sections 6 and 7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

**ARC 3606B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to amend Chapter 61, “Refugee Services Program,” Iowa Administrative Code.

These amendments establish the Iowa Refugee Services Foundation, a self-sustaining not-for-profit entity which will be incorporated under Iowa Code chapter 504A. The purpose of the Foundation is to promote the welfare and self-sufficiency of noncitizen refugees who live in Iowa. The Foundation is not a state agency, and the state is not liable for any debts of the Foundation.

The Foundation is created to provide a means for the Bureau of Refugee Services to engage in private fund-raising in support of refugee resettlement activities. The U.S. Department of State has an expectation that all refugee resettlement agencies will raise funds to supplement federal funding for refugee services. The Foundation is empowered to accept donations and bequests, to accept and administer trusts, and to establish an endowment. Donations to the Foundation will be tax-deductible.

These amendments reference the structure and duties of the Foundation as established by statute, reiterate the membership policies, and set the meeting procedures for the Board of Directors.

These amendments do not provide for waivers in specified situations because they are organizational in nature and do not affect the rights and duties of the public.

Any interested person may make written comments on the proposed amendments on or before September 22, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3603B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 146.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

**ARC 3607B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6 and 2004 Iowa Acts, Senate File 2298, section 112, subsection 6, the Department of Human Services proposes to amend Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

These amendments allow a deduction for excess medical expense when a Food Assistance recipient receives a Medicare prescription drug discount card or credit.

The Medicare Prescription Drug Improvement and Modernization Act of 2003 authorizes prescription drug discount cards that provide Medicare beneficiaries with negotiated prices that should be lower than the regular price of prescription drugs. In addition, from June through December 2004, Medicare is providing a \$600 subsidy to Medicare beneficiaries whose incomes are not more than 135 percent of the poverty level and who do not have certain other drug coverage. An additional subsidy of up to \$600 will be provided in calendar year 2005.

The Medicare Prescription Drug Improvement and Modernization Act of 2003 specifies that these Medicare benefits shall not be taken into account in determining a person’s benefits under any other federal program. The U.S. Department of Agriculture has determined that allowing households to claim only their out-of-pocket prescription costs, and not the prediscount costs, would take the benefits of the discount card or credit into account when determining the household’s Food Assistance benefits.

Federal guidance offered three options for budgeting the value of the subsidy. The Department has chosen the option of allowing a prorated standard allowance to recognize the value of the discount card or credit. The household may verify actual costs if actual costs would result in a higher deduction than the standard allowance. This option was chosen based on what would be the most consistent, provide a benefit to the household for the longest time, and be the least error-prone to administer.

These amendments do not provide for waivers in specified situations because Food Assistance policy is based on federal legislation, which the Department does not have authority to waive.

Any interested person may make written comments on the proposed amendments on or before September 22, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3604B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code section 234.12 and Section 1860D-31(g)(6) of the Social Se-

## HUMAN SERVICES DEPARTMENT[441](cont'd)

curity Act as amended by the Medicare Prescription Drug Improvement and Modernization Act of 2003, 42 U.S.C. 1395w-141(g)(6).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

**ARC 3619B****INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 523B.10, the Insurance Division hereby gives Notice of Intended Action to rescind Chapter 55, "Iowa Business Opportunity Sales Act," Iowa Administrative Code.

Effective July 1, 2004, 2004 Iowa Acts, House File 2269, sections 4 through 31, rescinds the registration requirements and transfers administration of the only remaining filing requirement (service of process) in Iowa Code chapter 523B, the Iowa Business Opportunity Sales Act, from the Insurance Division to the Iowa Secretary of State.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 21, 2004. Such written materials should be directed to Dennis Britson, Director, Regulated Industries Unit, Iowa Insurance Division, 340 Maple Street, Des Moines, Iowa 50319-0066; fax (515)281-3059; E-mail [dennis.britson@iid.state.ia.us](mailto:dennis.britson@iid.state.ia.us). Persons who wish to convey their views orally should contact the Regulated Industries Unit at (515)281-4441 or at the Regulated Industries Unit offices at 340 Maple Street.

Pursuant to Iowa Code section 17A.4A, the Division has determined that this amendment has no impact on small business, nor does it have any fiscal impact pursuant to Iowa Code Supplement section 17A.4(3).

No waiver provision is included in this amendment because the amendment is necessitated by the statutory amendments to Iowa Code chapter 523B.

This amendment is intended to implement 2004 Iowa Acts, House File 2269, section 31.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind and reserve **191—Chapter 55.**

**ARC 3620B****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(17) and 16.18(1), the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 3, "Multifamily Housing," Iowa Administrative Code.

The proposed amendments expand the types of loans available under Chapter 3, expand the range of eligible borrowers and add a new division for gap financing loans. Division I of Chapter 3 is proposed to be changed from a loan preservation program to a program for both preservation of existing units and construction of new affordable developments. The proposed amendments to Division I include general guidelines for multifamily loans and specific requirements applicable to the three categories of loans proposed to be made under this division: (1) loans for preservation of affordable housing; (2) loans for tax credit developments; and (3) loans for substantial rehabilitation of developments not currently restricted for use as affordable housing.

The proposed changes to Division II of Chapter 3, the pre-development loan fund, expand the range of eligible borrowers to include for-profit organizations and make this loan fund available for a broader range of multifamily loans.

Finally, the proposed amendments add to this chapter a new Division III for a gap financing fund. The proposed rules outline the application procedure, loan fund guidelines, and other necessary requirements of the gap financing fund.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed rules until 5 p.m. on September 21, 2004. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Donna Davis at (515)242-4957 or E-mailed to [donna.davis@ifa.state.ia.us](mailto:donna.davis@ifa.state.ia.us). Persons who wish to comment orally should contact Donna Davis at (515) 242-4990.

These amendments are intended to implement Iowa Code sections 16.5(17) and 16.18(1).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend the title of **265—Chapter 3**, Division I, as follows:

## DIVISION I

## MULTIFAMILY PRESERVATION LOAN PROGRAM



## IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 2. Amend rule 265—3.1(16) as follows:

**265—3.1(16) Purpose.** Through its multifamily ~~preservation~~ loan program (program), the authority seeks to preserve the existing supply of affordable rental units at risk of being lost, ~~either from physical deterioration, from current financial structure or from current owners opting out of affordable housing, for which reasonable financing through traditional lenders or other government financing is not readily available~~ and to foster the production of new affordable rental units in the state.

ITEM 3. Amend rule 265—3.3(16) as follows:

**265—3.3(16) Intent of the authority.** It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this program, and to allow discretion and flexibility to be used by the authority in its analysis and awarding of loans and grants under this program. It is the position of the authority that such discretion and flexibility are essential to structuring transactions that will work to ~~preserve~~ foster affordable housing in the state in a manner that best serves the citizens of the state.

ITEM 4. Amend rule 265—3.4(16) as follows:

**265—3.4(16) Application procedure.** Applications for assistance under this program must be made on forms and in the manner provided by the authority. Inquiries with respect to this program should be made to those persons identified on the authority's Web site as contacts for this program. Once contacted with an inquiry, the authority will send an application package to the potential applicant. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to ~~preserve~~ foster affordable housing in the state.

ITEM 5. Rescind rule 265—3.5(16) and adopt the following **new** rule in lieu thereof:

**265—3.5(16) Program guidelines.** For-profit and nonprofit sponsors are eligible to apply for assistance under this program. There are three categories of loans under this program: preservation of affordable housing, low-income housing tax credits, and substantial rehabilitation of nonrestricted projects.

**3.5(1)** Projects eligible for assistance must meet the following criteria, in addition to any specific requirements applicable to a particular category of loan as set forth in rule 265—3.6(16), 265—3.7(16), or 265—3.8(16), as applicable:

a. Both a demonstrated market need for the units must exist and the project must be in a good location, as determined by the authority in its sole discretion.

b. Assistance provided under this program must enable the project to maintain financial feasibility and affordability for at least the term of the assistance.

c. Maintenance and debt service reserve funds must be adequately funded, as determined by the authority in its sole discretion.

d. The maximum loan amount is \$3 million. The maximum loan term is 24 months for construction financing and 30 years for permanent financing.

e. The required debt service is 1.25 to 1. Loan-to-value ratio will be considered.

f. Interest rates will be set by the authority, in its sole discretion.

g. Loans shall be secured by a first mortgage; provided, however, that in limited cases the authority may consider a subordinate mortgage when the first mortgage is held by another entity.

h. Construction financing may be awarded to projects under the program.

i. Borrowers must covenant to observe certain compliance measures, including a recorded land use restrictive agreement (LURA) to ensure long-term affordability.

j. A title guaranty certificate from the authority's title guaranty division is required on all loans, unless specifically waived by the authority.

k. A local contributing effort in an amount of at least 1 percent of the proposed loan is required for loans made under division I of this chapter, and evidence of the local contributing effort shall be presented to the authority.

l. The authority may require a change of management or general partner and may refer applicants to other financing options, such as tax-exempt bonds or tax credits, when appropriate.

m. FHA-insured loans may be available through the Multifamily Accelerated Processing (MAP) of HUD, if the authority is an approved MAP lender at the time of the loan closing. The authority may require or suggest such a MAP loan for any and all projects applying for assistance. In addition, the authority may participate in the HUD Risk-Sharing Program and may suggest or require such a loan for any and all projects applying for assistance.

n. Grant funds may be available, in the sole discretion of the authority, if the authority determines that such funds are necessary for the continued financial viability of the project.

o. Recipients must execute such documents and instruments, and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

**3.5(2)** Loan fees are as follows:

a. Commitment fee (construction period) – 1.0 percent of total development costs.

b. Commitment fee (permanent loan) – 2.0 percent of loan amount.

c. Inspection fee – 0.5 percent of loan amount.

d. Application fee – 0.3 percent of proposed loan amount.

The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

ITEM 6. Renumber rules **265—3.6(16)** to **265—3.8(16)** as **265—3.9(16)** to **265—3.11(16)** and adopt the following **new** rules:

**265—3.6(16) Multifamily loan program for preservation of affordable housing.** Projects eligible for loans under this category must satisfy the following conditions, in addition to (or instead of, if there is a conflict) the requirements of rule 265—3.5(16):

1. Projects must have been developed using at least one of the following: low-income housing tax credits (LIHTC); state or local HOME funding; tax-exempt bonds; a HUD or USDA Rural Development program (i.e., Section 515); authority HAF funds; or funds of the former Iowa housing corporation (IHC).

2. Units must at a minimum be affordable to tenants with incomes at or below 80 percent of area median income (AMI), and, in most cases, must be affordable to tenants with

IOWA FINANCE AUTHORITY[265](cont'd)

incomes at or below 50 percent AMI. Mixed income projects will be considered.

3. The maximum loan amount is \$2 million.
4. Projects must have at least five units.

**265—3.7(16) Multifamily loan program for low-income housing tax credits.** Projects eligible for loans under this category must satisfy the following conditions, in addition to (or instead of, if there is a conflict) the requirements of rule 265—3.5(16):

1. Projects allocated tax credits from 2003 or subsequent tax credit allocation rounds that have not yet started construction or have not obtained permanent financing are eligible for assistance.

2. Projects shall include either 20 percent of the units at or below 50 percent of AMI or 40 percent of the units at or below 60 percent of AMI.

**265—3.8(16) Multifamily loan program for substantial rehabilitation of nonrestricted projects.** Projects eligible for loans under this category must satisfy the following conditions, in addition to (or instead of, if there is a conflict) the requirements of rule 265—3.5(16):

1. Projects that currently have no affordability restrictions (e.g., Section 8 project based, USDA 515, LIHTC) are eligible for assistance.

2. Sponsors must agree that at least 40 percent of the units shall have rents at or below the applicable area FMR (fair market rents as determined by HUD).

3. Projects must have at least five units.

ITEM 7. Amend rule 265—3.20(16) as follows:

**265—3.20(16) Purpose.** Through its predevelopment loan fund (fund), the authority seeks to expand the ability of ~~non-profit~~ organizations to utilize the authority's multifamily ~~preservation~~ loan program (program) by offering low-cost predevelopment loans for which reasonable financing through traditional lenders or other government financing is not readily available.

ITEM 8. Amend rule 265—3.21(16) as follows:

**265—3.21(16) Available funds.** The authority ~~anticipates that it will, from time to time, publicize on the authority's Web site at [www.ifahome.com](http://www.ifahome.com) the approximate amount of funds available for predevelopment loans under this fund on the authority's Web site at [www.ifahome.com](http://www.ifahome.com).~~

ITEM 9. Amend rule 265—3.23(16) as follows:

**265—3.23(16) Application procedure.** Applications for assistance under this fund must be made on forms and in the manner provided by the authority. Inquiries with respect to this fund should be made to those persons identified on the authority's Web site as contacts for the program and the fund. Once contacted with an inquiry, the authority will send an application package to the potential applicant. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to ~~preserve~~ *foster* affordable housing in the state.

ITEM 10. Amend the introductory paragraph of rule 265—3.24(16) as follows:

**265—3.24(16) Fund guidelines.** ~~A nonprofit~~ Any sponsor is eligible to apply for assistance from the fund relating to a specific project provided that the ~~nonprofit~~ sponsor ~~intends to ap-~~

~~ply applies~~ for a multifamily ~~preservation~~ loan under the program for the same project.

ITEM 11. Amend subrule 3.24(1) as follows:

**3.24(1)** Loans may be made to ~~nonprofit~~ sponsors only with respect to projects that meet the criteria detailed in subrule 3.5(1).

ITEM 12. Amend paragraph **3.24(3)“d”** as follows:

d. Interest rates will be set by the authority, in its sole discretion, ~~based on a spread to a widely used market index, such as but not limited to one-year rates for advances from the Federal Home Loan Bank of Des Moines. The authority will publicize the index and spread on its Web site at [www.ifahome.com](http://www.ifahome.com).~~

ITEM 13. Amend 265—Chapter 3 by adopting the following **new** division:

#### DIVISION III GAP FINANCING FUND

**265—3.31(16) Purpose.** Through its gap financing fund (gap fund), the authority seeks to expand the ability of organizations to utilize the authority's multifamily loan program (program) by offering low-cost gap loans for which reasonable financing through traditional lenders or other government financing is not readily available.

**265—3.32(16) Intent of the authority.** It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this gap fund, and to allow discretion and flexibility to be used by the authority in its analysis and awarding of loans under this gap fund.

**265—3.33(16) Application procedure.** Applications for assistance under this gap fund must be made on forms and in the manner provided by the authority. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve affordable housing in the state.

**265—3.34(16) Fund guidelines.** Any sponsor is eligible to apply for assistance from the gap fund relating to a specific project provided that the sponsor applies for a multifamily loan under the program for the same project.

**3.34(1)** Loans may be made to sponsors only with respect to projects that meet the criteria detailed in subrule 3.5(1).

**3.34(2)** The following types of activities and costs, to the extent approved by the authority, are eligible for assistance: acquisition costs, operating and replacement reserves, insurance, closing costs, and such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for loans under the gap fund.

**3.34(3)** Assistance will be provided upon the following terms and conditions:

a. The maximum loan amount cannot exceed 25 percent of the authority's first mortgage loan and second mortgage loan, if any, under the program.

b. The loan term shall not exceed 30 years.

c. Principal and interest payments shall be due monthly.

d. Interest rates will be set by the authority, in its sole discretion, as close to market as the financial capacity of the project will allow.

e. Loans shall be secured by a subordinate mortgage.

f. Recipients must execute such documents and instruments, and must provide such information, certificates and

## IOWA FINANCE AUTHORITY[265](cont'd)

other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

**3.34(4) Loan fees are as follows:**

- a. Commitment fee – 1.0 percent of loan amount.
- b. Origination fee – 2.0 percent of loan amount.
- c. Inspection fee – 0.5 percent of loan amount.
- d. Application fee – 0.3 percent of proposed loan amount.

The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

**265—3.35(16) Authority analysis of applications.** Authority staff will analyze each potential loan and will make recommendations for funding assistance to the board of directors of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this gap fund.

**265—3.36(16) Discretion of authority board.** The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

**265—3.37(16) Closing/advance of funds.** If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.

**265—3.38 to 3.40** Reserved.

**ARC 3623B****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 51, “Game Management Areas,” Iowa Administrative Code.

This amendment adds camping restrictions in state wildlife areas where posted.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 21, 2004. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on September 21, 2004, at 3:30 p.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names

and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend 571—Chapter 51 by adopting the following **new** rule:

**571—51.11(481A) Camping restrictions.** Primitive camping is allowed on all game management areas for a period not to exceed two days (48 hours) of consecutive use, unless specific restrictions are posted on site. The department may prohibit or restrict camping at any game management area by the posting of signs stating the applicable restrictions. Where posted, camping shall be prohibited within 100 yards of public parking lots, boat ramps, fishing jetties and other public use facilities.

**ARC 3622B****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 81, “Fishing Regulations,” Iowa Administrative Code.

The proposed amendments prohibit culling or sorting of fish; establish bag and possession limits for shovelnose sturgeon on the Missouri River; close harvest of shovelnose sturgeon on the Big Sioux River; modify seasons for muskellunge, tiger muskie, and northern pike in Lakes West Okoboji and East Okoboji and Spirit Lake; modify bag and possession limits for walleye on the Missouri River; and modify the closed area for fishing below Lock and Dam Number 11 on the Mississippi River.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 23, 2004. Such written materials should be directed to Marion Conover, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515)281-5208 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be three public hearings as follows:

## NATURAL RESOURCE COMMISSION[571](cont'd)

September 21, 2004 7 p.m.  
Dickinson County Community Building  
1602 15th Street  
Spirit Lake

September 22, 2004 7 p.m.  
University of Dubuque  
Dunlap Technology Building, Room 201  
2000 University Drive  
Dubuque

September 23, 2004 1:30 p.m.  
Wallace State Office Building  
Fourth Floor Conference Room  
502 East 9th Street  
Des Moines

At the public hearings, persons may present their views either orally or in writing. Persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who intends to attend a public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67 and 481A.76.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 571—81.1(481A) as follows:

**571—81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits.**

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS
	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0		Same as inland waters
<i>Shovelnose Sturgeon</i>	<i>Continuous</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>Same as inland waters except no harvest allowed in the Big Sioux River and aggregate daily bag limit 10, aggregate possession limit 20, in the Missouri River</i>
Paddlefish*	Continuous	2	4	None	Same as inland waters
Yellow Perch	Continuous	25	50	None	Same as inland waters except no bag or possession limit in the Missouri River.
Trout	Continuous	5	10	None*	Same as inland waters
Catfish*	Continuous	8 Lakes 15 Streams	30	None	Same as inland waters except no bag or possession limit in Mississippi River
Black Bass (Largemouth Bass) (Smallmouth Bass) (Spotted Bass)	Continuous	3  In Aggregate	6	See below*	Continuous open season; aggregate daily bag limit 5, aggregate possession limit 10.  See below*
Combined Walleye, Sauger and Saugeye	Continuous*	5*	10*	None*	Continuous open season; aggregate daily bag limit 6, aggregate possession limit 12; except aggregate daily bag limit 4, aggregate possession limit 8, in the Big Sioux River and Missouri Rivers. See below*
Northern Pike	Continuous	3	6	None	Continuous open season; daily bag limit 5; , possession limit 10; except daily bag limit 6, possession limit 12, in the Big Sioux River
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	40"	Same as inland waters
All other fish species*	Continuous	None	None	None	See below*
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs ( <i>Rana Catesbeiana</i> )	Continuous	12	12	None	Same as inland waters

\*Also see 81.2(481A), Exceptions.

ITEM 2. Amend subrule 81.2(1) as follows:

**81.2(1)** Exception closed season. In Lakes West Okoboji, and East Okoboji, and Spirit Lake, there shall be a closed season on walleye, muskellunge, tiger muskie, and northern pike beginning February 15; each year. The annual opening for walleye and northern pike in these three lakes shall be the first Saturday in May. *In these three lakes there shall be a closed season on muskellunge and tiger muskie beginning*

*December 1 each year.* The annual opening for muskellunge and tiger muskie in these three lakes shall be May 21.

Fishing in any manner is prohibited from December 1 of each year through March 15 the following year in the following areas of the Mississippi River.

a. From Lock and Dam Number 11 downstream to the State Highway 61 and 151 bridge railroad bridge near river mile 579.9.

## NATURAL RESOURCE COMMISSION[571](cont'd)

b. From Lock and Dam Number 12 downstream to the mouth of Mill Creek near river mile 556.

c. From Lock and Dam Number 13 downstream to the downstream end of Stamp Island near river mile 521.5.

ITEM 3. Amend rule 571—81.2(481A) by adopting the following **new** subrule:

**81.2(13)** Culling. It is prohibited to sort, cull, high-grade, or replace any fish already in possession. Participants in permitted black bass tournaments are exempted. Any fish taken into possession by holding in a live well, on a stringer or in other fish-holding devices is part of the daily bag limit. Once the daily bag limit of a particular species is reached, fishing for that species is permitted as long as all fish of that species caught are immediately released.

**ARC 3627B****NATURAL RESOURCE  
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to adopt new Chapter 90, “Aquatic Invasive Species,” Iowa Administrative Code.

The 2004 General Assembly amended the Eurasian Watermilfoil statute to prevent the introduction and spread of all aquatic invasive plants and animals into and within the state. The proposed chapter establishes a list of prohibited aquatic invasive species, restricts the introduction, sale, possession, and transportation of these species, and establishes methods for prohibiting activities in and identifying waterbodies infested with these species.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 22, 2004. Such written materials should be directed to Kim Bogenschutz, Department of Natural Resources, 1436 255th Street, Boone, Iowa 50036; fax (515)432-2835. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515)432-2823 or at the Fisheries Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on September 22, 2004, at 1 p.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 456A.37 as amended by 2004 Iowa Acts, House File 2357.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following **new** chapter is proposed.

**CHAPTER 90****AQUATIC INVASIVE SPECIES**

**571—90.1(456A) Definitions.** As used in this chapter:

“Commission” means the natural resource commission.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources.

“Introduce” means to release a species into waters of the state. “Introduce” does not include the immediate return of a nonnative species to waters of the state from which it was removed.

“Transport” means to cause a species to be moved into or within the state, and includes accepting or receiving the species for transportation or shipment. “Transport” does not include the unintentional transport of a species within a water of the state or to a connected water of the state where the species being transported is already present.

“Watercraft” means a device used or designed for navigation on water.

**571—90.2(456A) Aquatic invasive species.** For the purposes of this rule, the following species and any hybrids, cultivars, or varieties of the species are designated as aquatic invasive species.

**90.2(1) Aquatic invasive plants.**

Brittle naiad	Najas minor
Curlyleaf pondweed	Potamogeton crispus
Eurasian watermilfoil	Myriophyllum spicatum
Flowering rush	Butomus umbellatus
Purple loosestrife	Lythrum salicaria,
	Lythrum virgatum
Salt cedar	Tamarix spp.

**90.2(2) Aquatic invasive fish.**

Bighead carp	Hypophthalmichthys nobilis
Black carp	Mylopharyngodon piceus
Round goby	Neogobius melanostomus
Rudd	Scardinius erythrophthalmus
Ruffe	Gymnocephalus cernuus
Silver carp	Hypophthalmichthys molitrix
White perch	Morone americana

**90.2(3) Aquatic invasive invertebrates.**

Fishhook waterflea	Cercopagis pengoi
New Zealand mudsnail	Potamopyrgus antipodarum
Quagga mussel	Dreissena bugensis
Rusty crayfish	Orconectes rusticus
Spiny waterflea	Bythotrephes cederstroemi
Zebra mussel	Dreissena polymorpha

**90.2(4) Federal noxious weed list.** For purposes of this rule, the aquatic plants listed in Code of Federal Regulations, Title 7, Section 360.200, are also designated as aquatic invasive species.

**90.2(5) Injurious wildlife species.** For purposes of this rule, aquatic species listed in Code of Federal Regulations, Title 50, Section 16.11 through 16.15, are also designated as aquatic invasive species.

**571—90.3(456A) Restrictions.**

**90.3(1)** A person shall not possess, introduce, import, purchase, sell, barter, propagate, or transport aquatic invasive species in any form in this state, except:

## NATURAL RESOURCE COMMISSION[571](cont'd)

- a. By written permission of the director;
- b. For disposal as part of a harvest or control activity;
- c. When a species is being transported to the department, or to another destination as directed by the department, in a sealed container for purposes of identifying the species or reporting the presence of the species;
- d. When the specimen has been lawfully acquired dead and, in the case of plant species, when all seeds are removed or are otherwise secured in a sealed container;
- e. In the form of herbaria or other preserved specimens; or
- f. When a species is being removed from watercraft and equipment, or when a species is caught by an angler and immediately returned to the water from which it came.

**90.3(2)** A conservation officer, other licensed peace officer, or employee of the department may seize or dispose of all specimens of aquatic invasive species unlawfully possessed, introduced, imported, purchased, sold, bartered, propagated, or transported in the state.

**571—90.4(456A) Infested waters.**

**90.4(1)** Designation of infested waters. The department shall designate infested waters of the state. The department shall publish the names of infested waters in the fishing regulations brochure each year and provide notice through other available means where practical. At any time, the department may designate additional waters or remove from designation those waters that are no longer infested.

**90.4(2)** Restricted activities on infested waters. The department may restrict boating, fishing, swimming, and trapping in infested waters of the state. When determining when to restrict activities in infested waters, the department shall consider:

- a. The extent of a species' distribution within the state;
- b. The likely means of spread for a new species; and
- c. Whether restrictions specific to infested waters containing a specific species will effectively reduce that species' spread.

These rules are intended to implement Iowa Code section 456A.37 as amended by 2004 Iowa Acts, House File 2357.

**ARC 3621B****NATURAL RESOURCE  
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 98, “Wild Turkey Spring Hunting,” Iowa Administrative Code.

These rules give the regulations for hunting wild turkeys during the spring and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements. The amendments establish a youth hunting season for residents and clarify tagging requirements.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 21, 2004. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on September 21, 2004, at 3 p.m. in the Fifth Floor West Conference Room, Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 483A.38, 483A.39, 483A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 571—98.4(481A) as follows:

**571—98.4(481A 483A) Transportation tag.** *A Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to the carcass of each wild turkey one leg in such a manner that the tag cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be transported moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The carcass of any wild turkey being transported within the state during any wild turkey spring hunting season must have the leg that bears the tag attached to the carcass. The tag shall be proof of possession of the carcass by the above-mentioned licensee.*

ITEM 2. Adopt **new** rule 571—98.7(483A) as follows:

**571—98.7(483A) Youth spring wild turkey hunt.**

**98.7(1)** Licenses. A special youth spring wild turkey hunting license valid statewide may be issued to any Iowa resident who is at least 12 years old but not over 15 years old on the date the youth purchases the license. The youth license may be paid or free to persons eligible for free licenses. If the youth obtains a free landowner/tenant license, it will count as the one free license for which the youth's family is eligible. The youth must possess a valid hunter safety certificate to obtain a license. Each participating youth must be accompanied by an adult who possesses a valid spring turkey license for one of the hunting periods and a hunting license and has paid the habitat fee (if the adult is normally required to have a hunting license and to pay the habitat fee to hunt). The accompanying adult must not possess a firearm or bow and must be in the direct company of the youth at all times. A person may obtain only one youth turkey hunting license but may also obtain one turkey hunting license for the last spring hunting period in Zone 4.

## NATURAL RESOURCE COMMISSION[571](cont'd)

**98.7(2)** Youth season dates. The youth turkey hunting license shall be valid during the Saturday and Sunday immediately before the first turkey hunting period.

**98.7(3)** Limits and license quotas. An unlimited number of licenses may be issued. The daily and season bag and possession limit is one bearded or male wild turkey.

**98.7(4)** Method of take and other regulations. Wild turkeys may be taken with shotguns, muzzleloaded shotguns or bows as described in 571—98.2(483A). All other spring wild turkey hunting regulations for residents shall apply.

**98.7(5)** Procedures for obtaining licenses. Paid and free youth season licenses may be obtained through ELSI beginning December 15 through the last day of the youth season.

ITEM 3. Amend rule 571—98.15(483A) as follows:

**571—98.15(483A) Transportation tag.** *A Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to the carcass of each wild turkey one leg in such a manner that the tag cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be transported moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The carcass of any wild turkey being transported within the state during any wild turkey spring hunting season must have the leg that bears the tag attached to the carcass. The tag shall be proof of possession of the carcass by the above-mentioned licensee.*

## ARC 3616B

### PROFESSIONAL LICENSURE DIVISION[645]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby gives Notice of Intended Action to amend Chapter 42, “Colleges for Chiropractic Physicians,” Iowa Administrative Code.

The proposed amendments adopt a definition for “60-minute hour” and rescind rule 645—42.2(151) and adopt a new rule in lieu thereof to clarify the requirements for physiotherapy coursework.

Interested persons may make written comments on the proposed amendments no later than September 22, 2004, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on September 22, 2004, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapter 151.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—42.1(151)** by adopting the following **new** definition in alphabetical order:

“60-minute hour” means 50 minutes of resident attendance with 10 minutes for note taking and breaks.

ITEM 2. Rescind rule 645—42.2(151) and adopt the following **new** rule in lieu thereof:

#### **645—42.2(151) Board-approved chiropractic colleges.**

**42.2(1)** Approval of a chiropractic college may be granted if the program submits proof to the board of chiropractic examiners that the chiropractic program meets the following requirements:

a. The chiropractic college is fully accredited by the Commission on Accreditation of the Council on Chiropractic Education (CACCE), as recognized by the U.S. Department of Education.

b. The core curriculum meets the requirements of the CACCE standards and, in addition:

(1) Covers a period of four academic years totaling not less than 4,000 60-minute hours in actual resident attendance;

(2) Comprises a supervised course of study, including clinical practical instruction, in all of the subjects specified in Iowa Code section 151.1(3); and

(3) Includes a minimum of 120 classroom hours of physiotherapy coursework with a clinical practical component on each of the procedures covered in the course.

c. The chiropractic college publishes in a regularly issued catalog the requirements for graduation and degrees that are required by the Iowa board of chiropractic examiners.

d. Transcripts include entries for all completed coursework.

**42.2(2)** Through July 1, 2005, conditional approval may be given to a college if:

a. The college is not fully accredited by the CACCE but meets all other requirements for approval in rule 645—42.2(151), except for the physiotherapy component in subparagraph 42.2(1)“b”(3); and

b. The physiotherapy coursework appears as a transfer credit on a transcript from an approved chiropractic college; and

c. The physiotherapy coursework includes a clinical practical application which meets the same standards as the coursework offered for the board-approved chiropractic college’s own students.

**ARC 3615B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology Examiners hereby gives Notice of Intended Action to amend Chapter 240, “Licensure of Psychologists,” Iowa Administrative Code.

This proposed amendment amends the requirements for the accreditation of educational programs for licensure.

Any interested person may make written comments on the proposed amendment no later than September 22, 2004, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on September 22, 2004, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 154B and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Rescind subrule 240.3(2) and adopt the following **new** subrule in lieu thereof:

**240.3(2)** The program from which the doctoral degree in psychology is granted must be accredited by the American Psychological Association or Canadian Psychological Association, or the applicant must hold a specialty diploma by examination from the American Board of Professional Psychology.

**ARC 3618B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners hereby gives Notice of In-

tended Action to amend Chapter 280, “Licensure of Social Workers,” Iowa Administrative Code.

The proposed amendment requires licensees to make supervisor termination evaluations available to the Board upon request instead of automatically submitting the evaluations to the Board.

Any interested person may make written comments on the proposed amendment no later than September 22, 2004, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on September 22, 2004, from 1 to 2 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 147, 154C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule **280.6(4)**, paragraph “**b**,” subparagraph (1), as follows:

(1) The plan for supervision that was created at the beginning of the period of supervision and that was maintained by the supervisor. If there has been a change of supervisors, the LISW candidate has the responsibility to have a termination evaluation completed by that supervisor and to have the copy submitted to the next supervisor. All termination evaluations shall be ~~submitted available~~ to the board *upon request with the final supervision report sheet*. The supervision provided by all qualified supervisors that *who* have a plan of supervision with the applicant can be counted toward meeting the criteria for supervision.

**NOTICE—USURY**

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

September 1, 2003 — September 30, 2003	6.00%
October 1, 2003 — October 31, 2003	6.50%
November 1, 2003 — November 30, 2003	6.25%
December 1, 2003 — December 31, 2003	6.25%
January 1, 2004 — January 31, 2004	6.25%
February 1, 2004 — February 29, 2004	6.25%
March 1, 2004 — March 31, 2004	6.25%
April 1, 2004 — April 30, 2004	6.00%
May 1, 2004 — May 31, 2004	5.75%
June 1, 2004 — June 30, 2004	6.25%
July 1, 2004 — July 31, 2004	6.75%
August 1, 2004 — August 31, 2004	6.75%
September 1, 2004 — September 30, 2004	6.50%



## ARC 3601B

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2004 Iowa Acts, House File 2134, section 7, the Department of Human Services amends Chapter 36, "Facility Assessments," and Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," Iowa Administrative Code.

These amendments expand the assessment fee for intermediate care facilities for the mentally retarded to apply to the State Resource Centers at Woodward and Glenwood, which were previously excluded. The fee is set at 6 percent of the total annual revenue of the facility for the preceding fiscal year. Funds generated from the assessment are credited to the state medical assistance appropriation. These funds are then used for Medicaid service payments, which draw down additional federal matching funds.

The fee is an allowable cost on a facility's Medicaid cost report. These amendments adjust the Medicaid reimbursement rates for these facilities to reflect the increased cost. Any amount attributable to the fee that would otherwise be the liability of the county shall be paid by the state. The fee is retroactive to October 1, 2003, as permitted by legislation.

These amendments also correct a cross reference on appeals of county decisions.

These amendments do not provide for waivers in specified situations because all affected facilities should be treated uniformly under the law.

The Council on Human Services adopted these amendments on August 11, 2004.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments implement 2004 Iowa Acts, House File 2134, section 7, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived, as authorized by 2004 Iowa Acts, House File 2134, section 7.

These amendments are also published herein under Notice of Intended Action as **ARC 3605B** to allow for public comment.

These amendments are intended to implement 2004 Iowa Acts, House File 2134, section 3, and Iowa Code section 249A.21 as amended by 2004 Iowa Acts, House File 2134, sections 6 and 7.

These amendments became effective August 12, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 441—36.1(249A) as follows:

**441—36.1(249A) Assessment of fee.** Intermediate care facilities for the mentally retarded (ICFs/MR) licensed in Iowa under 481—Chapter 64 that are not operated by the state shall pay a monthly fee to the department. The fee shall equal 6 percent of the total revenue of the facility for the facility's preceding fiscal year divided by the number of months of facility

operation during the preceding fiscal year. *For ICFs/MR operated by the state, the fee shall be retroactive to October 1, 2003.*

ITEM 2. Amend rule 441—36.2(249A) by adopting **new** subrule 36.2(4) as follows:

**36.2(4)** By August 15, 2004, the department shall notify each facility operated by the state of the amount of the fee assessed for the retroactive period of October 1, 2003, through August 31, 2004, subject to adjustment based on adjustment to the facility's financial and statistical report. State-operated facilities shall transfer the amount due for the retroactive period during state fiscal year 2004 (October 2003 through June 2004) to the medical assistance appropriation by August 31, 2004. The amount due for July and August 2004 shall be deducted from the quarterly medical assistance payments made to state-operated facilities in October 2004.

ITEM 3. Amend subrule 36.3(1) as follows:

**36.3(1)** Any licensed ICF/MR in Iowa that is ~~not operated by the state and~~ is not certified to participate in the Medicaid program shall submit Form 470-0030, Financial and Statistical Report, as required for participating facilities by rule 441—82.5(249A), for purposes of determining the amount of the assessment. The department may audit and adjust the reports submitted, as provided for participating facilities in 441—subrules 82.5(10) and 82.17(1).

ITEM 4. Amend subrule 82.5(13) as follows:

**82.5(13)** Assessed fee. The fee assessed pursuant to 441—Chapter 36 shall be an allowable cost for cost reporting and audit purposes.

a. For the purpose of implementing the assessment *for facilities operated by the state*, Medicaid reimbursement rates shall be recalculated effective ~~February~~ *October 1, 2003*, as provided in paragraph "b."

b. For purposes of determining rates paid for services rendered after ~~February~~ *October 1, 2003*;

(1) ~~Each state-operated facility's~~ *each state-operated facility's* annual costs for periods before ~~February 1, 2003~~, *implementation of the assessment* shall be increased by an amount equal to 6 percent of the facility's annual revenue for the preceding fiscal year.

(2) ~~These revised costs shall be used to recalculate the eightieth percentile maximum rate referenced in paragraph 82.5(14)"e" and the maximum allowable base cost referenced in paragraph 82.5(16)"c."~~

(3) ~~The incentive factors previously calculated under paragraph 82.5(14)"f" for reimbursement rates taking effect on or after July 1, 2002, shall be maintained for the remainder of state fiscal year 2003.~~

ITEM 5. Amend subrule **82.7(4)**, first unnumbered paragraph, as follows:

The applicant or consumer for whom the county has legal payment responsibility shall be entitled to a review of adverse decisions by the county by appealing to the county pursuant to rule 441—25.21(331), *paragraph 25.13(2)"j."* If dissatisfied with the county's decision, the applicant or consumer may file an appeal with the department.

[Filed Emergency 8/12/04, effective 8/12/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

## ARC 3602B

### HUMAN SERVICES DEPARTMENT[441]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 234.6 and 249.4, the Department of Human Services amends Chapter 50, "Application for Assistance," Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

In accordance with 2004 Iowa Acts, House File 2134, these amendments implement a new category of State Supplementary Assistance for people who are Medicare and Medicaid eligibles by reason of age or disability, but have income over 135 percent of the federal poverty guidelines. Most of the potentially eligible recipients are receiving care in nursing facilities; others are receiving Medicaid as employed people with disabilities whose income is low enough that they do not have to pay a premium for Medicaid coverage. The state covers the monthly Medicare premiums for these people (currently \$76.44) as part of their Medicaid benefits, but the state cannot receive federal financial participation for those costs.

These amendments allow people in this group to receive cash assistance of \$1 per month. Eligibility is not limited by the income tests for determining "substantial gainful activity" used in the Supplemental Security Income Program. Since recipients of cash assistance qualify for federal financial participation in their Medicaid premium payments, the net savings to the state will be approximately \$40 per month per recipient. An estimated 6000 people are expected to qualify.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on June 23, 2004, as **ARC 3437B**. The Department received no comments on the Notice of Intended Action.

The Department has made the following changes to the Notice of Intended Action:

- Simplified the application procedure, as reflected in a new subrule 50.2(4), which reads as follows: "**50.2(4)** An application for Medicaid from a person who meets the requirements of rule 441—51.6(249) shall be considered as an application for the supplement for Medicare and Medicaid eligibles." No separate application is necessary.
- Removed language about application for the new supplement category from the introductory paragraph of subrule 50.2(3), and combined the second and third sentences in that paragraph to remove unnecessary repetition.
- In light of the simplified application procedure, replaced the proposed language for subrule 50.3(4) with the following: "**50.3(4)** Payment for the supplement for Medicare and Medicaid eligibles shall be effective retroactive to October 1, 2003, or to the first month when all eligibility requirements are met, whichever is later."

These amendments do not provide for waivers in specified situations because additional assistance is a benefit to the client and generates funding that enhances the state's ability to provide medical assistance.

The Council on Human Services adopted these amendments on August 11, 2004.

The Department finds that these amendments confer a benefit by increasing the federal funds available for the Iowa Medicaid program. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date is waived.

These amendments are intended to implement Iowa Code sections 249.3 and 249.4 as amended by 2004 Iowa Acts, House File 2134, sections 4 and 5.

These amendments became effective on August 12, 2004. The following amendments are adopted.

ITEM 1. Amend rule **441—50.1(249)** as follows:

Amend the definition of "disabled" as follows:

"Disabled" shall mean *that* a person ~~who~~ is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death. *Exception: For the supplement for Medicare and Medicaid eligibles, being engaged in substantial gainful activity shall not preclude a determination of disability.* A child under the age of 18 is disabled if the child suffers from any medically determinable physical or mental impairment of comparable severity. For purposes of state-administered payments, ~~determinations of the department shall determine~~ disability ~~shall be made by the department~~ according to rule 441—75.20(249A).

Rescind the definition of "X-PERT."

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 249.3 as amended by 2004 Iowa Acts, House File 2134, section 4.

ITEM 2. Amend rule 441—50.2(249) as follows:

Amend subrule **50.2(1)** by adopting the following **new** paragraph "**c**":

c. Payments for supplements for Medicare and Medicaid eligibles shall be state-administered. Income excluded in determining eligibility for the person's Medicaid coverage group shall be excluded in determining eligibility for the state payment.

Amend subrule 50.2(3), introductory paragraph, as follows:

**50.2(3)** Any person applying for payment for residential care shall make application at a local ~~or area~~ office of the department of human services or at the residential care facility where the person resides. Any person applying for a dependent person allowance ~~shall make application at a local or area office of the department.~~ Any person applying ~~or~~ for payment for a protective living arrangement or in-home, health-related care shall make application at a local ~~or area~~ office of the department. An application may also be filed ~~directly with an income maintenance worker at any departmental satellite office or in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided.~~

Adopt **new** subrule 50.2(4) as follows:

**50.2(4)** An application for Medicaid from a person who meets the requirements of rule 441—51.6(249) shall be considered as an application for the supplement for Medicare and Medicaid eligibles.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 249.4 as amended by 2004 Iowa Acts, House File 2134, section 5.

ITEM 3. Amend rule 441—50.3(249) as follows:

Adopt the following **new** subrule:

**50.3(4)** Payment for the supplement for Medicare and Medicaid eligibles shall be effective retroactive to October 1, 2003, or to the first month when all eligibility requirements are met, whichever is later.

Amend the implementation clause as follows:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

This rule is intended to implement Iowa Code section 249.4 as amended by 2004 Iowa Acts, House File 2134, section 5.

ITEM 4. Amend rule 441—51.1(249), introductory paragraph, as follows:

**441—51.1(249) Application for other benefits.** An applicant or any other person whose needs are included in determining the state supplementary assistance payment must have applied for or be receiving all other benefits, including supplemental security income or aid to dependent children the family investment program, for which the person may be eligible. The person must cooperate in the eligibility procedures while making application for the other benefits. Failure to cooperate shall result in ineligibility for state supplementary assistance.

ITEM 5. Amend 441—Chapter 51 by adopting the following **new** rule:

**441—51.6(249) Eligibility for supplement for Medicare and Medicaid eligibles.** The following eligibility requirements are specific to the supplement for Medicare and Medicaid eligibles:

**51.6(1) Medicaid eligibility.** The recipient must be eligible for and receiving medical assistance benefits under Iowa Code chapter 249A without regard to eligibility based on receipt of state supplementary assistance under this rule, and without being required to meet a spenddown or pay a premium to be eligible for medical assistance benefits.

**51.6(2) SSI eligibility.** The recipient shall meet all eligibility requirements for supplemental security income benefits other than limits on substantial gainful activity and income.

**51.6(3) Not otherwise eligible.** The recipient must not be eligible for benefits under another state supplementary assistance group.

**51.6(4) Medicare eligibility.** The recipient must be currently eligible for Medicare Part B.

**51.6(5) Living arrangement.** A recipient may live in one of the following:

- a. The person's own home.
- b. The home of another person.
- c. A group living arrangement.
- d. A medical facility.

**51.6(6) Income.** Income of a recipient shall be within the income limit for the person's Medicaid eligibility group, but must exceed 135 percent of the federal poverty level.

This rule is intended to implement Iowa Code section 249.3 as amended by 2004 Iowa Acts, House File 2134, section 4.

ITEM 6. Amend rule 441—52.1(249) as follows:

Amend subrule **52.1(3)**, paragraph “e,” introductory paragraph, as follows:

e. Payment will be made for periods the resident is absent overnight for the purpose of visitation or vacation. The facility will be paid to hold the bed for a period not to exceed 30 days during any calendar year, unless a family member or legal guardian of the resident, the resident's physician, case manager, or department service worker provides signed documentation that additional visitation days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence which exceeds the 30-day annual limit. This information shall be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit

a Case Activity Report, Form AA-4166-0 470-0042, to the county office of the department to terminate the state supplementary assistance payment.

Adopt the following **new** subrule:

**52.1(7) Supplement for Medicare and Medicaid eligibles.** Payment to a person eligible for the supplement for Medicare and Medicaid eligibles shall be \$1 per month.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code sections 234.6, 234.38, 249.2, 249.3, 249.4, and 249A.4 chapter 249 as amended by 2004 Iowa Acts, House File 2134, sections 4 and 5.

[Filed Emergency After Notice 8/12/04, effective 8/12/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3603B**

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 61, “Refugee Services Program,” Iowa Administrative Code.

These amendments establish the Iowa Refugee Services Foundation, a self-sustaining not-for-profit entity which will be incorporated under Iowa Code chapter 504A. The purpose of the Foundation is to promote the welfare and self-sufficiency of noncitizen refugees who live in Iowa. The Foundation is not a state agency, and the state is not liable for any debts of the Foundation.

The Foundation is created to provide a means for the Bureau of Refugee Services to engage in private fund-raising in support of refugee resettlement activities. The U.S. Department of State has an expectation that all refugee resettlement agencies will raise funds to supplement federal funding for refugee services. The Foundation is empowered to accept donations and bequests, to accept and administer trusts, and to establish an endowment. Donations to the Foundation will be tax-deductible.

These amendments reference the structure and duties of the Foundation as established by statute, reiterate the membership policies, and set the meeting procedures for the Board of Directors.

These amendments do not provide for waivers in specified situations because they are organizational in nature and do not affect the rights and duties of the public.

The Council on Human Services adopted these amendments on August 11, 2004.

The Department finds that notice and public participation are unnecessary in that the structure and duties of the Foundation are prescribed by statute. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit by enabling the development of increased resources for refugee services. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments should be waived.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments are also published herein under Notice of Intended Action as **ARC 3606B** to allow for public comment.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 146.

These amendments became effective August 12, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Adopt **new** rule 441—61.18(217) as follows:

**441—61.18(217) Iowa refugee services foundation.** An Iowa refugee services foundation is established to engage in refugee resettlement activities to promote the welfare and self-sufficiency of refugees who live in Iowa and are not citizens of the United States. The structure and authority of the foundation shall be as prescribed in 2004 Iowa Acts, Senate File 2298, section 146, and in the bylaws adopted by the board of directors.

**61.18(1) Board of directors.** The foundation board of directors shall perform the duties and functions necessary and proper to carry out the foundation's responsibilities.

a. Composition. The board shall consist of five members, one appointed by the governor and four appointed by the director of the department of human services.

b. Term. Members of the board shall be appointed to three-year terms, except as described in paragraph "c." Terms shall begin on July 1 and end on June 30.

c. Initial term. The initial term of the members appointed by the director of the department of human services shall be as follows:

- (1) One member appointed for three years.
- (2) Two members appointed for two years.
- (3) One member appointed for one year.

d. Equity. Not more than two members appointed by the director of the department of human services shall be of the same gender or of the same political party.

e. Vacancy. A vacancy on the board shall be filled in the same manner as the original appointment for the remainder of the term.

**61.18(2) Board meetings.** The board of directors shall meet at least once each year to elect one of its members as chairperson.

ITEM 2. Amend **441—Chapter 61**, implementation clause, as follows:

These rules are intended to implement Iowa Code section 217.6 and chapter 622A and 2004 Iowa Acts, Senate File 2298, section 146.

[Filed Emergency 8/12/04, effective 8/12/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3604B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6 and 2004 Iowa Acts, Senate File 2298, section 112, subsection 6, the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

These amendments allow a deduction for excess medical expense when a Food Assistance recipient receives a Medicare prescription drug discount card or credit.

The Medicare Prescription Drug Improvement and Modernization Act of 2003 authorizes prescription drug discount cards that provide Medicare beneficiaries with negotiated prices that should be lower than the regular price of prescription drugs. In addition, from June through December 2004, Medicare is providing a \$600 subsidy to Medicare beneficiaries whose incomes are not more than 135 percent of the poverty level and who do not have certain other drug coverage. An additional subsidy of up to \$600 will be provided in calendar year 2005.

The Medicare Prescription Drug Improvement and Modernization Act of 2003 specifies that these Medicare benefits shall not be taken into account in determining a person's benefits under any other federal program. The U.S. Department of Agriculture has determined that allowing households to claim only their out-of-pocket prescription costs, and not the prediscount costs, would take the benefits of the discount card or credit into account when determining the household's Food Assistance benefits.

Federal guidance offered three options for budgeting the value of the subsidy. The Department has chosen the option of allowing a prorated standard allowance to recognize the value of the discount card or credit. The household may verify actual costs if actual costs would result in a higher deduction than the standard allowance. This option was chosen based on what would be the most consistent, provide a benefit to the household for the longest time, and be the least error-prone to administer.

These amendments do not provide for waivers in specified situations because Food Assistance policy is based on federal legislation, which the Department does not have authority to waive.

The Council on Human Services adopted these amendments on August 11, 2004.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because 2004 Iowa Acts, Senate File 2298, section 112, subsection 6, authorizes the Department to adopt Food Assistance rules without notice and public participation to comply with federal requirements.

The Department finds that these amendments confer a benefit on affected recipients by preventing a reduction in Food Assistance benefits based on a recipient's receipt of a Medicare drug discount card or rebate. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

These amendments are intended to implement Iowa Code section 234.12 and Section 1860D-31(g)(6) of the Social Security Act as amended by the Medicare Prescription Drug Improvement and Modernization Act of 2003, 42 U.S.C. 1395w-141(g)(6).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments are also published herein under Notice of Intended Action as **ARC 3607B** to allow for public comment.

These amendments became effective August 20, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

Amend subrule 65.8(7) as follows:

**65.8(7) Excess medical expense deduction.**

a. Notwithstanding anything to the contrary in these rules or regulations, at certification, households having a member eligible for the excess medical expense deduction shall be allowed to provide a reasonable estimate of the member's medical expenses anticipated to occur during the household's certification period.

(1) The estimate may be based on available information about the member's medical condition, public or private medical insurance coverage, and current verified medical expenses.

(2) Households giving an estimate shall not be required to report or verify changes in medical expenses that were anticipated to occur during the certification period.

b. *Effective beginning June 1, 2004.*

(1) *A household member who receives the Medicare prescription drug credit shall be allowed a standard medical expense of \$50 per month for the credit until the full value of the annual credit is realized.*

(2) *A household member who has a Medicare prescription drug discount card shall be allowed a standard medical expense of \$23 per month for the discount.*

(3) *These standard medical expenses shall be added to any other eligible monthly out-of-pocket medical expenses.*

c. *Effective beginning June 1, 2004, a household member with a Medicare drug discount card may claim actual prediscount prescription drug expenses rather than use the standards if the expense is greater than the standards. To claim actual expenses, the person must verify either the prediscount expense or the discounted expense. If the discounted expense is verified, then prescription costs are multiplied by a discount factor of 1.25 to determine the prediscount expense.*

[Filed Emergency 8/12/04, effective 8/20/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

## ARC 3624B

### NATURAL RESOURCE COMMISSION[571]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 91, "Waterfowl and Coot Hunting Seasons," Iowa Administrative Code.

These rules give the regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. Season dates are

adjusted annually to comply with federal law and to ensure that seasons open on a weekend.

State hunting seasons on migratory birds must be set within frameworks established annually by the Fish and Wildlife Service, U.S. Department of the Interior. These frameworks specify shooting hours, bag limits and possession limits, as well as season lengths and outside dates. These frameworks were finalized by the Service in early August. Therefore, adoption of a final rule by the Department could not take place prior to this time.

Notice of Intended Action was published in the March 3, 2004, Iowa Administrative Bulletin as **ARC 3200B**. The only changes from the Notice of Intended Action were that the Canada goose season was reduced from 70 days to 60 days, the dates of the season in both zones were adjusted, and the boundaries of the area closed to Canada goose hunting in Butler and Bremer Counties were adjusted.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that these amendments confer a benefit on a segment of the public by becoming effective upon filing with the Administrative Rules Coordinator on August 13, 2004, and that the usual effective date of these amendments, 35 days after publication, would unnecessarily restrict the public by delaying the opening of the waterfowl and coot hunting seasons.

These amendments became effective August 13, 2004.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

The following amendments are adopted.

ITEM 1. Amend rule 571—91.1(481A), introductory paragraph, as follows:

**571—91.1(481A) Ducks (split seasons).** The north duck hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59, south to I-80 and along I-80 to the Iowa-Illinois border. The south duck hunting zone is the remainder of the state. Open season for hunting ducks shall be September 20 18 to September 24, 2003 22, 2004, and October 11 16 to December 4, 2003 9, 2004, in the north zone; September 20 25 to September 22, 2003 and 26, 2004, and October 18 16 to December 13, 2003 12, 2004, in the south zone. Shooting hours are one-half hour before sunrise to sunset each day. The season for canvasbacks will be October 18 23 to November 16, 2003 21, 2004, in the north zone, and October 25 23 to November 23, 2003 21, 2004, in the south zone. The season for pintails will be from September 20 18 to September 24, 2003 22, 2004, and October 11 16 to November 4, 2003 9, 2004, in the north zone; September 20 25 to September 22, 2003 and 26, 2004, and October 18 16 to November 13, 2003 12, 2004, in the south zone.

ITEM 2. Amend rule 571—91.3(481A) as follows:

**571—91.3(481A) Geese.** The north goose hunting zone is that part of Iowa north of U.S. Highway 20 a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59, south to I-80 and along I-80 to the Iowa-Illinois border. The south goose hunting zone is the remainder of the state. The open season for hunting Canada geese and brant is September 27 25 to December 5, 2003 October 3, 2004, and October 16 to December 5, 2004, in the north goose hunting zone and September 27 to October 19 October 2 to October 10, 2004, and November 8 October 30 to December 24, 2003 19, 2004, in the south goose hunting zone. The open season for hunting white-fronted geese is September 27 25 to December 21, 2003 19, 2004, statewide in the north goose hunting zone and October

## NATURAL RESOURCE COMMISSION[571](cont'd)

2 to December 26, 2004, in the south goose hunting zone. The open season for hunting white and blue-phase snow geese and Ross' geese, collectively referred to as light geese, is September 27, 2003 25, 2004, to January 11, 2004 9, 2005, statewide. Light geese may also be taken under the conservation order from the U.S. Fish and Wildlife Service from January 12, 2004 10, 2005, through April 15, 2004 2005. Shooting hours are one-half hour before sunrise to sunset, except that during the conservation order shooting hours will be extended to one-half hour after sunset each day. *The open season for hunting Canada geese only shall be September 11 and September 12, 2004, in the north goose hunting zone.* The open season for hunting Canada geese only shall be September 1 to September 15, 2003 2004, in two specific areas described as follows:

**91.3(1)** Cedar Rapids/Iowa City goose hunting zone. The Cedar Rapids/Iowa City goose hunting zone includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; thence south and east along County Road E2W to Highway 920; thence north along Highway 920 to County Road E16; thence east along County Road E16 to County Road W58; thence south along County Road W58 to County Road E34; thence east along County Road E34 to Highway 13; thence south along Highway 13 to Highway 30; thence east along Highway 30 to Highway 1; thence south along Highway 1 to Morse Road in Johnson County; thence east along Morse Road to Wapsi Avenue; thence south along Wapsi Avenue to Lower West Branch Road; thence west along Lower West Branch Road to Taft Avenue; thence south along Taft Avenue to County Road F62; thence west along County Road F62 to Kansas Avenue; thence north along Kansas Avenue to Black Diamond Road; thence west on Black Diamond Road to Jasper Avenue; thence north along Jasper Avenue to Rohert Road; thence west along Rohert Road to Ivy Avenue; thence north along Ivy Avenue to 340th Street; thence west along 340th Street to Half Moon Avenue; thence north along Half Moon Avenue to Highway 6; thence west along Highway 6 to Echo Avenue; thence north along Echo Avenue to 250th Street; thence east on 250th Street to Green Castle Avenue; thence north along Green Castle Avenue to County Road F12; thence west along County Road F12 to County Road W30; thence north along County Road W30 to Highway 151; thence north along the Linn-Benton County line to the point of beginning.

**91.3(2)** Des Moines goose hunting zone. The Des Moines goose hunting zone includes those portions of Polk, Warren, Madison and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; thence south along County Road R38 to Northwest 142nd Avenue; thence east along Northwest 142nd Avenue to Northeast 126th Avenue; thence east along Northeast 126th Avenue to Northeast 46th Street; thence south along Northeast 46th Street to Highway 931; thence east along Highway 931 to Northeast 80th Street; thence south along Northeast 80th Street to Southeast 6th Avenue; thence west along Southeast 6th Avenue to Highway 65; thence south and west along Highway 65 to Highway 69 in Warren County; thence south along Highway 69 to County Road G24; thence west along County Road G24 to Highway 28; thence southwest along Highway 28 to 43rd Avenue; thence north along 43rd Avenue to Ford Street; thence west along Ford Street to Filmore Street; thence west along Filmore Street to 10th Avenue; thence south along 10th Avenue to 155th Street in Madison County; thence west along 155th Street to Cumming Road; thence north along Cumming Road to Badger Creek Avenue; thence north along Badger Creek

Avenue to County Road F90 in Dallas County; thence east along County Road F90 to County Road R22; thence north along County Road R22 to Highway 44; thence east along Highway 44 to County Road R30; thence north along County Road R30 to County Road F31; thence east along County Road F31 to Highway 17; thence north along Highway 17 to Highway 415 in Polk County; thence east along Highway 415 to Northwest 158th Avenue; thence east along Northwest 158th Avenue to the point of beginning.

**91.3(3)** Bag limit. Daily bag limit is 2 Canada geese, 2 white-fronted geese, 2 brant, and 20 light geese, except from September 1 to September 15 in the Cedar Rapids/Iowa City goose hunting zone and the Des Moines goose hunting zone when the daily bag limit is 3 Canada geese.

**91.3(4)** Possession limit. Possession limit is twice the daily bag limit and no possession limit on light geese.

ITEM 3. Amend subrule **91.4(2)**, paragraphs "m," "n," "o," and "p," as follows:

m. Area thirteen. Portions of Van Buren and Davis Counties bounded as follows: Beginning at the junction of State Highway 16 and State Highway 98 in Van Buren County; thence east and south along State Highway 16 (including the right-of-way) to State Highway 1 in Van Buren County; thence south along State Highway 1 (including the right-of-way) to State Highway 2; thence east west along State Highway 2 (including the right-of-way) to County Road W20; ~~thence south along County Road W20 (including the right-of-way) to the Iowa-Missouri border; thence west along the Iowa-Missouri border to State Highway 15 in Van Buren County; thence north along State Highway 15 (including the right-of-way) to State Highway 2 in Van Buren County; thence west along State Highway 2 (including the right-of-way) to County Road V42 in Davis County; thence north along County Road V42 (including the right-of-way) to County Road J40 in Davis County; thence east and south along County Road J40 (including the right-of-way) to County Road V64 in Van Buren County; thence north along County Road V64 (including the right-of-way) to State Highway 98 in Van Buren County; thence north along State Highway 98 (including the right-of-way) to the point of beginning.~~

n. Area fourteen. Portions of Bremer County bounded as follows: Beginning at the intersection of County Road V56 and 140th Street (also named State Highway 93); thence south along County Road V56 (including the right-of-way) to State Highway 3; thence west along State Highway 3 (including the right-of-way) to County Road V43; thence north along County Road V43 (including the right-of-way) to County Road C33; thence west along County Road C33 (including the right-of-way) to Navaho Avenue; ~~thence north along Navaho Avenue (including the right-of-way) to State Highway 93; thence west along State Highway 93 (including the right-of-way) to U.S. Highway 63; thence north 9.7 miles along U.S. Highway 63 (including the right-of-way) to the Bremer-Chickasaw County line; thence east 5.5 3 miles along the Bremer-Chickasaw County line road (including the right-of-way) to Quantum Oakland Avenue; thence south along Quantum Oakland Avenue (including the right-of-way) to 120th Street; thence east along 120th Street (including the right-of-way) to Piedmont Avenue; thence south along Piedmont Avenue (including the right-of-way) to 140th Street; thence east along 140th Street, which becomes State Highway 93, to the point of beginning.~~

o. Area fifteen. Portions of Butler County bounded as follows: Beginning at the junction of Iowa Highway 3 and County Road T16 and 230th Street; thence south 8.5 miles on

## NATURAL RESOURCE COMMISSION[571](cont'd)

County Road T16 (including the right-of-way) to its intersection with 280th Street; thence east 3 miles along 280th Street (including the right-of-way) to Grand Avenue; thence south on Grand Avenue (including the right-of-way) to County Road C55 (also named 290th Street); thence east 9.3 miles on County Road C55 (including the right-of-way) to its intersection with Jay Avenue; thence north along Jay Avenue (including the right-of-way) to 280th Street; thence east 3 miles on 280th Street (including the right-of-way) to State Iowa Highway 14; thence north 8.6 miles on Iowa State Highway 14 (including the right-of-way) to its intersection with Iowa Highway 3; 230th Street; thence west 9 miles on Iowa Highway 3 on 230th Street (including the right-of-way) to Jackson Avenue; thence north on Jackson Avenue (including the right-of-way) to 220th Street; thence west on 220th Street (including the right-of-way) to County Road T25 (also named Hickory Avenue); thence south 0.5 mile on County Road T25 (including the right-of-way) to 225th Street; thence west on 225th Street (including the right-of-way) to Fir Avenue; thence south 0.5 miles on Fir Avenue (including the right-of-way) to 230th Street; thence west on 230th Street (including the right-of-way) to the point of beginning; but, excluding those lands within this bounded area east of Jay Avenue managed by the department of natural resources as Big Marsh Management Area that are not posted as closed to Canada goose hunting.

p. Area sixteen. A portion of Union County bounded as follows: Beginning at the intersection of U.S. Highways 34 and Highway 169 and Three Mile Creek Drive near Thayer Afton; thence west along U.S. Highway 34 (including the right-of-way) approximately nine 2.5 miles to Union County Road P43 (also named Twelve Mile Lake Road); thence north along Union County Road P43 (including the right-of-way) approximately seven 5 miles, thence east on an unnum-

bered county road approximately four and one-half miles; thence south on an unnumbered county road to Union County Road H17; thence east along Union County Road H17 (including the right-of-way) approximately 6 miles to U.S. Highway 169 Quail Avenue; thence south along U.S. Highway 169 Quail Avenue (including the right-of-way) to Three Mile Creek Drive; thence south along Three Mile Creek Drive to the point of beginning.

ITEM 4. Amend subrule **91.4(2)** by rescinding and reserving paragraph “q.”

ITEM 5. Amend rule 571—91.6(481A) as follows:

**571—91.6(481A) Youth waterfowl hunt.** A special youth waterfowl hunt will be held statewide on October 4-2 and 5, 2003 3, 2004, in the north duck hunting zone and October 9 and 10, 2004, in the south duck hunting zone. Youth hunters must be 15 years old or younger. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in subrule 91.1(1). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

[Filed Emergency After Notice 8/13/04, effective 8/13/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3600B****AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(11), 192.102, and 194.2, the Department of Agriculture and Land Stewardship hereby adopts amendments to Chapter 68, "Dairy," Iowa Administrative Code.

These amendments are intended to update the rules governing the operation and inspection of dairy farms, dairy plants, and milk haulers and graders. The amendments adopt updated versions of the federal Pasteurized Milk Ordinance used for the interstate shipment of milk and milk products. The amendments also change the definition of "habitual violator" and update the rules to reflect current industry practices.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 7, 2004, as **ARC 3469B**. Comments were received from one individual who represents a major dairy industry association. The comments were supportive of the rule making. These amendments are identical to those published under Notice of Intended Action.

No waiver provision is included in these amendments because an existing rule allows for waivers in appropriate cases. The waiver rule also applies to the amendments herein.

The fiscal impact of these amendments is minimal on both the state and the persons impacted by the amendments.

These amendments are intended to implement Iowa Code chapters 192 and 194.

These amendments shall become effective on October 6, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 68] is being omitted. These amendments are identical to those published under Notice as **ARC 3469B**, IAB 7/7/04.

[Filed 8/11/04, effective 10/6/04]

[Published 9/1/04]

[For replacement pages for IAC, see IAC Supplement 9/1/04.]

**ARC 3599B****AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(11) and 189A.13, the Department of Agriculture and Land Stewardship hereby adopts amendments to Chapter 76, "Meat and Poultry Inspection," Iowa Administrative Code.

The purpose of these amendments is to update references to currently adopted federal regulations necessary for Iowa to retain its requisite "equal to" status for continued federal recognition of the state meat and poultry program. Three new federal regulations are also adopted relating to safe food production. Adoption of the regulations merely codifies exist-

ing industry practice. In addition, a new regulation is adopted which requires state-inspected custom meat plants to develop and implement sanitation standard operating procedures for slaughter and processing in the plants.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 26, 2004, as **ARC 3379B**. One comment was received from an individual who objected to the proposed rule that requires custom meat plants to develop and implement sanitation standard operating procedures. The Department reviewed the comment and decided to adopt the amendment in a form identical to the Notice of Intended Action.

No waiver provision is included in these amendments because an existing rule allows for waivers in appropriate cases. The waiver rule also applies to the amendments herein.

The fiscal impact of these amendments is minimal on both the state and the persons impacted by the amendments.

These amendments are intended to implement Iowa Code chapter 189A.

These amendments shall become effective on October 6, 2004.

The following amendments are adopted.

ITEM 1. Amend rule 21—76.1(189A), introductory paragraph, as follows:

**21—76.1(189A) Federal Wholesome Meat Act regulations adopted.** Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

ITEM 2. Amend rule 21—76.2(189A) as follows:

**21—76.2(189A) Federal Wholesome Meat Act regulations adopted.** Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 416, and Part 417, ~~Part 424, Part 430, and Part 441~~ of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, are hereby adopted in their entirety by reference. ~~Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of May 1, 2004, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.~~

ITEM 3. Amend rule 21—76.3(189A), introductory paragraph, as follows:

**21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted.** Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, is hereby adopted in its entirety with the following exceptions: 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, 381.128, Subpart R, Subpart T, Subpart V, Subpart W; and in addition thereto, the following subsections shall be expanded to include:

ITEM 4. Amend rule 21—76.4(189A) as follows:

**21—76.4(189A) Inspection required.** Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for trans-



## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

portation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5.

ITEM 5. Amend 21—Chapter 76 by adopting a **new** rule as follows:

**21—76.5(189A) Custom/exempt facilities sanitation standard operating procedures.** Iowa inspected custom/exempt facilities shall develop and implement a sanitation standard operating procedure (SSOP) in a manner consistent with Section 416.12, Title 9, Chapter III, Code of Federal Regulations.

ITEM 6. Amend rule 21—76.13(189A) as follows:

**21—76.13(189A) Voluntary inspections of exotic animals.** Every person wishing to obtain voluntary inspection of exotic animals shall comply with the regulations adopted in this rule.

Part 352 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, is hereby adopted in its entirety by reference.

This rule is intended to implement Iowa Code chapter 189A.

ITEM 7. Amend rule 21—76.14(189A) as follows:

**21—76.14(189A) Federal Wholesome Meat Act regulations adopted for the regulation of farm deer.**

1. All federal regulations adopted in 21—76.1(189A).

2. All federal regulations adopted in 21—76.2(189A), except Part 303 and Part 307.4(c) of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~August 29, 2003~~ *May 1, 2004*.

This rule is intended to implement Iowa Code chapter 189A and 2003 Iowa Acts, House File 624 *Iowa Code Supplement chapter 170*.

[Filed 8/11/04, effective 10/6/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

## ARC 3611B

### EDUCATION DEPARTMENT[281]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 79, "Standards for Practitioner Preparation Programs," Iowa Administrative Code.

This amendment is required by Iowa Code Supplement section 272.25(4) [2003 Iowa Acts, chapter 180, section 17], and is part of ongoing program approval revisions.

No waiver provision is included because the Board of Education has adopted agencywide waiver rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3267B**. A public hearing was held on April 27, 2004. No oral or written comments were received.

A cross reference in paragraph "e" of subrule 79.13(2) has been corrected.

This amendment is intended to implement Iowa Code Supplement section 272.25(4).

This amendment will become effective October 6, 2004. The following amendment is adopted.

Amend subrule 79.13(2) as follows:

**79.13(2) Student teaching** ~~The student teaching experience shall:~~

a. ~~be~~ Be a full-time experience for a minimum of 12 consecutive weeks in duration during the student's final year of the practitioner preparation program; ;

b. ~~Consist of interactive experiences that involve the college or university personnel, the student teacher, the cooperating teacher, and administrative personnel from the cooperating teacher's school district;~~

c. ~~Include prescribed minimum expectations and responsibilities, including ethical behavior, for the student teacher;~~

d. ~~Include prescribed minimum expectations and responsibilities for cooperating teachers, the school district, and higher education supervising faculty members;~~

e. ~~Include opportunities for the student teacher to become knowledgeable about the Iowa teaching standards, including a mock evaluation performed by the cooperating teacher or a person who holds an Iowa evaluator certificate (see rule 282—20.51(272) and Iowa Code section 284.10). The mock evaluation shall not be used as an assessment tool by the practitioner preparation program.~~

[Filed 8/12/04, effective 10/6/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

## ARC 3609B

### HUMAN SERVICES DEPARTMENT[441]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

These amendments affect eligibility and service requirements for the six Medicaid home- and community-based services waivers (AIDS/HIV, brain injury, elderly, ill and handicapped, mental retardation, and physical disability).

These amendments make the following changes specific to the mental retardation waiver:

- Add a definition of "medical institution." This term is used in the eligibility requirements and is defined for the other five waivers.

- Clarify that organizational outcome standards also apply to agencies certified to provide respite services in the consumer's home, to be consistent with the requirements of subparagraph 77.37(15)"a"(8).

- Expand eligibility requirements for residential-based supported community living services to include children living in an ICF/MR, at risk of placement in an ICF/MR, or in

## HUMAN SERVICES DEPARTMENT[441](cont'd)

need of long-term placement outside the home, when the children meet the other qualifications for waiver services. These services have been restricted to children who had been receiving rehabilitative treatment or supportive services through foster group care. Children in that population are now reaching majority and moving to other service settings.

These amendments will allow provision of residential-based supported community living services to other categories of children for whom this placement may be appropriate. The amendment requires preapproval by the Department and specifies what documentation must be submitted to obtain approval.

These amendments make the following changes specific to both the mental retardation and brain injury waivers:

- Specify that providers of consumer-directed attendant care and interim medical monitoring and treatment must be at least 18 years of age. It is more appropriate that service to these vulnerable populations be provided by an adult.

- Add to the organizational outcome standards requirements for tracking and review of incident reports.

- Add standards for incident reporting to the qualifications for providers of supported employment and non-residential-based supported community living services. These standards parallel those adopted in 441—Chapter 24 for the accreditation of providers of services to persons with mental illness, mental retardation, or developmental disabilities. Since certification under a home- and community-based services waiver qualifies a provider for deemed status under 441—Chapter 24, it is appropriate that the requirements be comparable.

- Remove from the certification process references to the provider application. These references are redundant, since enrollment procedures for all Medicaid providers are specified in rule 441—79.14(249A).

- Change the reference to “adult day health services” agencies as respite providers to “adult day care providers” with qualifications as provided under these amendments.

- Require that provider budgets for supported community living services reflect costs associated with the specific support needs of the consumers and specify conditions that pertain to these costs.

These amendments make the following changes specific to adult day care and respite services, which are provided under five waivers (AIDS/HIV, brain injury, elderly, ill and handicapped, and mental retardation):

- Update provider requirements for adult day care services under all five waivers to recognize Iowa Code Supplement chapter 231D, enacted by 2003 Iowa Acts, chapter 165, as the certification authority for these programs.

- Amend all five waivers to clarify the conditions for provision of respite by a camp and to provide that a consumer whose usual caregiver provides consumer-directed attendant care for the consumer cannot receive respite services under the waiver.

- Add licensed or registered child care facilities as allowable providers of respite care under the AIDS/HIV, brain injury, ill and handicapped, and mental retardation waivers.

- Allow respite providers certified under the brain injury waiver to provide respite under the AIDS/HIV and ill and handicapped waivers.

Other substantive changes made in these amendments are as follows:

- Remove payment limitations for specialized medical equipment that is provided under the brain injury or physical disability waiver. Payments currently may be released at a rate of only \$500 per month. These amendments allow full

payment to the provider upon delivery of the equipment. Up to \$500 of the cost is encumbered monthly against the maximum allowable cost of service until the cost is amortized. The maximum annual payment remains at \$6000. This amendment is consistent with amendments for home and vehicle modification that were Adopted and Filed and published as **ARC 1840B** in the August 7, 2002, Iowa Administrative Bulletin, and that became effective October 1, 2002.

- Remove requirements for specific “gatekeeper” services for the ill and handicapped, mental retardation, and physical disability waivers. Under the amendments, the provision of any waiver service during each calendar quarter will maintain a consumer’s eligibility. This requirement is consistent with the requirements of the other three waivers.

- Add limitations to the provision of consumer-directed attendant care under all waivers to specify that service can be provided when the consumer’s parent or guardian is absent if authorized in advance by the parent or guardian and that, when a guardian or an attorney in fact under a durable power of attorney for health care is the service provider, oversight must be provided by the service worker or case manager.

- Clarify that providers of home and vehicle modification, specialized medical equipment, transportation, and personal emergency response services under the brain injury waiver are not required to have training or experience related to brain injuries.

Other technical changes made in these amendments are as follows:

- Update provider requirements for interim medical monitoring and treatment (covered in the brain injury, ill and handicapped, and mental retardation waivers) to reflect current regulatory categories of child care facilities.

- Replace references to the Division of Mental Health and Developmental Disabilities as the certifying entity with references to the Bureau of Long-Term Care.

These amendments do not provide for waivers in specified situations because they mainly remove restrictions, provide additional protection for consumers, update requirements for consistency with other requirements or name changes, or clarify current policy. Consumers may request a waiver of these provisions under the Department’s general rule at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on June 23, 2004, as **ARC 3438B**. The Department received one comment from the Iowa Center for Assisted Living, an arm of the Iowa Health Care Association, requesting that certified assisted living providers be added as eligible providers of respite under the five waivers that offer respite service. The Department has made this change in paragraphs 77.30(5)“a,” 77.33(6)“a,” 77.34(5)“a,” 77.37(15)“a,” and 77.39(14)“a” by adding to each of the paragraphs a new subparagraph that contains the following text: “Assisted living programs certified by the department of inspections and appeals.”

The Department has also made changes in the incident reporting standards in paragraph 77.37(8)“d” and subparagraph 77.39(6)“b”(4) to conform more closely with the rules for provider accreditation in 441—Chapter 24. Specifically, the wording has been changed to clarify that the facility is required to notify the consumer or guardian within 72 hours of the occurrence of a major incident, not to send a copy of the completed incident report. The Department does not want to have different standards applying to different residents in the same facility, depending on whether a Medicaid waiver is the funding source.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The Council on Human Services adopted these amendments on August 11, 2004.

These amendments are intended to implement Iowa Code sections 249A.3 and 249A.4.

These amendments shall become effective on November 1, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 77, 78, 79, 83] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3438B**, IAB 6/23/04.

[Filed 8/12/04, effective 11/1/04]  
[Published 9/1/04]

[For replacement pages for IAC, see IAC Supplement 9/1/04.]

**ARC 3608B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," Iowa Administrative Code.

This amendment adds Medicaid coverage of dental hygiene services in maternal health centers. Services must comply with the scope of practice as determined by the Iowa Board of Dental Examiners.

The Iowa Department of Public Health has requested that Medicaid allow the services to be covered. Currently 6 of the 26 maternal health centers provide dental hygiene services to Medicaid-eligible pregnant women under exceptions to policy (waivers). Eight other centers have a dental hygienist on staff but have not requested a waiver. Oral health can affect the birth outcome, and there are significant areas of Iowa that are underserved by dentists.

This amendment does not provide for waivers in specified situations because it is an expansion of coverage.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on June 23, 2004, as **ARC 3439B**. The Department received no comments on the Notice of Intended Action.

The Department made one change to the Notice of Intended Action, removing the phrase "of dental hygiene in a public health setting," to clarify that it is the scope of practice that is defined by the Board of Dental Examiners reference, not the term "public health setting."

The Council on Human Services adopted this amendment on August 11, 2004.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment shall become effective on November 1, 2004.

The following amendment is adopted.

Amend subrule **78.25(2)** by adopting the following new paragraph "e":

e. Dental hygiene services within the scope of practice as defined by the board of dental examiners at 650—paragraph 10.5(3)"b."

[Filed 8/12/04, effective 11/1/04]  
[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3610B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 130, "General Provisions," and Chapter 170, "Child Care Services," Iowa Administrative Code.

These amendments:

- Move policies specific to the Child Care Assistance Program from Chapter 130 to Chapter 170. Funding sources and administration of the program have changed since Chapter 130 was originally implemented, resulting in many policies that are unique to the Child Care Assistance Program. The Department believes that policies for the Child Care Assistance Program and other social services will be clearer and more accessible to the public if Child Care Assistance policies are aggregated in a single chapter. These amendments do not represent changes in program policy.

- Implement annual changes in the income limits and the fee schedule due to the 2004 federal poverty levels issued by the federal Office of Management and Budget. Although the methodology for the income guidelines and the priority groups remain the same, the amendments do not include the chart of specific income levels that was part of subrule 130.3(1). The Department will continue to publish the annual changes to the income limits in its Employees' Manual, but these changes will not require rule making. This approach is consistent with that used in other programs whose income eligibility is based on a percentage of the federal poverty guidelines.

- Make technical changes to update program names and references, including removal of references to Title XX in rule 441—130.5(234), and to obsolete case plan forms in rule 441—130.7(234), and to relative care in rule 441—170.1(237A). The text of subrules 170.2(2) and 170.2(3) on general eligibility requirements and priority of service is reorganized so that material from Chapter 130 could be added in a logical order.

These amendments do not provide for waivers in specified situations. Changes to the income limits and fee schedule benefit recipients by allowing for inflation. Other changes are technical rather than substantive. Individuals may request a waiver of Child Care Assistance policies under the Department's general rule on exceptions at 441—1.8(17A,217).

The amendments were previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3387B**. Notice of Intended Action to solicit comments on that submission was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3389B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to

## HUMAN SERVICES DEPARTMENT[441](cont'd)

the Adopted and Filed Emergency amendments and to the Notice of Intended Action.

The Council on Human Services adopted these amendments on August 11, 2004.

These amendments are intended to implement Iowa Code sections 237A.13 and 239B.24.

These amendments shall become effective October 6, 2004, at which time the Adopted and Filed Emergency amendments are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 130, 170] is being omitted. These amendments are identical to those published under Notice as **ARC 3389B** and Adopted and Filed Emergency as **ARC 3387B**, IAB 6/9/04.

[Filed 8/12/04, effective 10/6/04]  
[Published 9/1/04]

[For replacement pages for IAC, see IAC Supplement 9/1/04.]

**ARC 3626B****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 321G.2 and 462A.3, the Natural Resource Commission hereby amends Chapter 20, "Manufacturer's Certificate of Origin," Chapter 38, "Boat Registration and Numbering," Chapter 39, "Boating Passenger Capacity," Chapter 46, "All-Terrain Vehicle and Snowmobile Bonding," Chapter 47, "Vessel Bonding," and Chapter 50, "All-Terrain Vehicles and Snowmobile Accident Reports, Titling, Registration and Numbering," Iowa Administrative Code.

These amendments identify forms required by the Department and identify those forms by specific form number. Additionally, these amendments contain clarifications or corrections to existing rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3398B**.

One change has been made to the Notice. In Item 14, the word "liens" has been added to rule 571—50.2(321G). Rule 571—50.2(321G) now reads as follows:

**"571—50.2(321G) Registration and titling—required forms.** All applications, affidavits, liens and certificates shall be completed in full on DNR Forms 542-0540, 542-0974, 542-0976, 542-0978, 542-0979, 542-8050, 542-8065, 542-8067, 542-8092, and 542-8095 as provided by the department."

These amendments were approved during the August 12, 2004, meeting of the Natural Resource Commission.

These amendments will become effective on October 6, 2004.

These amendments are intended to implement Iowa Code sections 321G.2 and 462A.3.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 20, 38, 39, 46, 47, 50]

is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 3398B**, IAB 6/9/04.

[Filed 8/13/04, effective 10/6/04]  
[Published 9/1/04]

[For replacement pages for IAC, see IAC Supplement 9/1/04.]

**ARC 3628B****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission adopts an amendment to Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

This amendment establishes a provision for designating certain areas on Lake Red Rock, in Marion County, as "no anchoring" areas for vessels. This amendment will provide for increased water safety for the recreating public.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3407B**. No comments were received during the comment period or during the public hearing held June 29, 2004. This amendment is identical to the one published under Notice.

This amendment is intended to implement Iowa Code section 456A.24.

This amendment will become effective October 6, 2004. The following amendment is adopted.

Amend 571—Chapter 40 by adding the following **new** subrule:

**40.6(3)** Areas may be designated as "no anchoring" areas.

[Filed 8/13/04, effective 10/6/04]  
[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3629B****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts amendments to Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

These amendments add restrictions to Green Island and Lake Odessa State Wildlife Areas.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 7, 2004, as **ARC 3488B**.

A public hearing was scheduled for July 27, 2004. The only comments received favored the speed restrictions at Lake Odessa.

There are no changes from the Notice of Intended Action.

## NATURAL RESOURCE COMMISSION[571](cont'd)

These amendments are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

These amendments shall become effective October 6, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 40.9(2) as follows:

**40.9(2)** All motorboats, except authorized emergency vessels, shall be operated at no-wake speed ~~between April 1 and October 1~~ *yearly year around*, on that portion of Lake Odessa known as the Sand Run Chute, lying south of the main lake to a point 100 yards south of the Sand Run Chute boat ramp.

ITEM 2. Renumber rule **571—40.49(462A)** as **571—40.50(462A)** and adopt the following new rule:

**571—40.49(462A) Zoning of Green Island, Jackson County.** All motorboats except authorized emergency vessels shall operate at no-wake speed year around on boat channels adjacent to the interior channel 4 levee at the Green Island State Wildlife area. Both channels begin at the Green Island county road parking lot and proceed north 7920 feet along each side of the channel 4 levee to an intersection with the Snag Slough complex.

[Filed 8/13/04, effective 10/6/04]  
[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3625B****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts an amendment to Chapter 52, "Wildlife Refuges," Iowa Administrative Code.

This amendment will make it unlawful during certain time periods to trespass on the Middle River Wildlife Area (formerly known as Banner Pits) in Warren County and portions of the Black Hawk Bottoms Wildlife Area in Des Moines County.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 7, 2004, as **ARC 3487B**. There is one change from the Notice. Black Hawk Bottoms Wildlife Area was added to address a problem concerning trespass and land ownership adjacent to the Black Hawk Bottoms Wildlife Area. It is important to solve the issue this waterfowl hunting season.

This amendment will become effective October 6, 2004.

This amendment is intended to implement Iowa Code sections 481A.5, 481A.6 and 481A.39.

The following amendment is adopted.

Amend subrule **52.1(2)** by adopting the following new paragraph "**b**":

b. It shall be unlawful to trespass in any manner on the following areas, where posted, anytime year around, except that department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters under the supervision of department staff may enter

when specifically authorized by the department of natural resources.

<u>Area</u>	<u>County</u>
Middle River Wildlife Area	
(formerly Banner Pits) . . . . .	Warren
Black Hawk Bottoms Wildlife Area . . . . .	Des Moines

[Filed 8/13/04, effective 10/6/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3630B****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts an amendment to Chapter 105, "Deer Population Management Areas," Iowa Administrative Code.

This amendment sets licensing requirements for adults accompanying youth during special youth educational hunts at state parks or recreation areas.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 7, 2004, as **ARC 3489B**. There are no changes from the Notice.

This amendment will become effective October 6, 2004.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

The following amendment is adopted.

Amend subrule **105.4(1)** by adopting the following new paragraph "**i**":

i. For special youth educational hunts at state parks or recreation areas, licensing requirements for accompanying adults are the same as for youth deer hunts as established by 571—subrule 106.10(1).

[Filed 8/13/04, effective 10/6/04]

[Published 9/1/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3617B****PROFESSIONAL LICENSURE  
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners hereby amends Chapter 280, "Licensure of Social Workers," and Chapter 281, "Continuing Education for Social Workers," Iowa Administrative Code.

The amendments specify licensees' responsibilities relating to license renewal and change the way continuing education will be reported and audited.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 9, 2004, as **ARC 3382B**. A

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

public hearing was held on June 29, 2004, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building.

The following changes from the Notice have been made. The Board added language that pertains to brochure content to paragraph 281.5(2)“a,” and subrule 281.5(5) was reworded to include language regarding good-faith conduct of the licensee and to incorporate a suggestion from a representative of the assistant attorney general that the deadline for make-up credit documentation be determined based on when the notification letter is mailed from the Board office.

These amendments were adopted by the Board of Social Work Examiners on August 9, 2004.

These amendments will become effective October 6, 2004.

These amendments are intended to implement Iowa Code chapters 147, 154C and 272C.

The following amendments are adopted.

ITEM 1. Rescind subrule 280.9(2), introductory paragraph, and paragraph “a,” and adopt the following **new** introductory paragraph and paragraph “a” in lieu thereof:

**280.9(2)** At least 60 days prior to expiration of the license, the licensee shall be notified by mail that an on-line renewal application is available at the board’s Internet address. Renewal applications are also available by mail upon request.

a. The required materials and the renewal fee are to be submitted to the board office 30 days before license expiration.

ITEM 2. Amend subrule **280.9(2)** by adopting **new** paragraph “e” as follows:

e. Failure to receive the notice of renewal shall not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

ITEM 3. Rescind rule 645—281.5(154C) and adopt the following **new** rule in lieu thereof:

**645—281.5(154C) Audit of continuing education report.** After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

**281.5(1)** The board may audit a percentage of its licensees and may determine to audit a licensee at the discretion of the board. Licensees whose license renewal applications are submitted late (after the end of the compliance period) may be submitted for a continuing education audit.

**281.5(2)** The licensee shall make available to the board for auditing purposes the following information:

a. Date and location of course, course title, course description/detailed outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which shows that the course content relates to the profession;

b. Number of contact hours for program attended; and

c. Certificate of completion or evidence of successful completion of the course from the course sponsor.

**281.5(3)** For auditing purposes, all licensees must retain the above information for two years after the biennium has ended.

**281.5(4)** Information identified in subrule 281.5(2) must be submitted within one month after the date of notification of the audit. An extension of time may be granted on an individual basis.

**281.5(5)** The licensee shall be notified if the submitted materials are incomplete or unsatisfactory. The licensee

shall be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency resulted despite the good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is within 90 days from the date of mailing to the licensee’s last address on file at the board office.

**281.5(6)** Failure to complete the audit satisfactorily or falsification of information may result in board action as described in 645—Chapter 283.

**281.5(7)** Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

[Filed 8/12/04, effective 10/6/04]

[Published 9/1/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/1/04.

**ARC 3613B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 39, “Filing Return and Payment of Tax,” Chapter 40, “Determination of Net Income,” Chapter 42, “Adjustments to Computed Tax,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Chapter 53, “Determination of Net Income,” and Chapter 59, “Determination of Net Income,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVII, No. 1, p. 33, on July 7, 2004, as **ARC 3485B**.

Item 1 amends subrule 39.3(5) to eliminate the requirement that voter registration forms are to be inserted in income tax return booklets and income tax return instructions in odd-numbered tax years. The amendment reflects that the official electronic state of Iowa voter registration form and a link to the Iowa Secretary of State’s official Web site will be placed on the Department of Revenue’s Web site.

Item 2 amends rule 40.1(422) to reference new rule 40.65(422).

Item 3 amends rule 40.60(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal Revenue Code for assets placed in service on or after May 5, 2003, but before January 1, 2005, does not apply for individual income tax.

Item 4 adopts new rule 40.65(422), which provides that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for assets placed in service on or after January 1, 2003, but before January 1, 2006, does not apply for individual income tax.

Item 5 amends subrule 42.2(11) to include federal revisions made in 2003 in the research activities credit for individuals.

Item 6 amends subrules 52.7(3) and 52.7(5) regarding the research activities credit for corporations and the research activities credit for increasing research activities in a quality job enterprise zone. The amendment shows that the Department has adopted the 2003 federal revisions which might impact the calculation of the Iowa research activities credit.

## REVENUE DEPARTMENT[701](cont'd)

Item 7 amends the implementation clause for rule 52.14(422) regarding the research activities credit for research activities conducted in an enterprise zone. The amendment to the implementation clause reflects that the research activities credit for research activities conducted in an enterprise zone is to be computed with changes in the federal research credit that occurred during 2003.

Item 8 amends rule 53.1(422) to reference new rule 53.23(422).

Item 9 amends rule 53.22(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal Revenue Code for assets placed in service on or after May 5, 2003, but before January 1, 2005, does not apply for corporation income tax.

Item 10 adopts new rule 53.23(422), which provides that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for assets placed in service on or after January 1, 2003, but before January 1, 2006, does not apply for corporation income tax. To clarify this provision, examples are included.

Item 11 amends rule 59.23(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal Revenue Code for assets placed in service on or after May 5, 2003, but before January 1, 2005, does not apply for franchise tax.

Item 12 adopts new rule 59.24(422), which provides that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for assets placed in service on or after January 1, 2003, but before January 1, 2006, does not apply for franchise tax.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective October 6, 2004, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 15.335, 15A.9, 421.17, 422.10, and 422.33 as amended by 2004 Iowa Acts, Senate File 2296.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [39.3, 40.1, 40.60, 40.65, 42.2, 52.7, 52.14, 53.1, 53.22, 53.23, 59.23, 59.24] is being omitted.

These amendments are identical to those published under Notice as **ARC 3485B**, IAB 7/7/04.

[Filed 8/12/04, effective 10/6/04]  
[Published 9/1/04]

[For replacement pages for IAC, see IAC Supplement 9/1/04.]

**ARC 3614B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.17 and 422.68, the Department of Revenue hereby adopts an amendment to Chapter 39, "Filing Return and Payment of Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVII, No. 1, p. 36, on July 7, 2004, as **ARC 3484B**.

The amendment updates, modernizes, and condenses the Department's electronic filing rule, 701—39.13(422). The revised rule omits language which is no longer relevant to the Department's practices and procedures which allow for electronic filing of tax returns. The revised rule also contains a much-needed subrule of definitions.

This amendment is identical to that published under Notice of Intended Action.

This amendment will become effective October 6, 2004, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement Iowa Code sections 422.21 and 422.68.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [39.13] is being omitted. This amendment is identical to that published under Notice as **ARC 3484B**, IAB 7/7/04.

[Filed 8/12/04, effective 10/6/04]  
[Published 9/1/04]

[For replacement pages for IAC, see IAC Supplement 9/1/04.]

AGENCY	RULE	DELAY
Dental Examiners Board[650]	30.4“15,” “24,” “27,” and “35”; 31.14 [IAB 7/21/04, <b>ARC 3520B</b> ]	Effective date of August 25, 2004, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 11, 2004. [Pursuant to §17A.4(6)]
Environmental Protection Commission[567]	65.17(13)“e” [IAB 7/21/04, <b>ARC 3517B</b> ]	Effective date of August 25, 2004, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 11, 2004. [Pursuant to §17A.4(6)]









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